



*State of Michigan*

*Office of  
Children's  
Ombudsman*

*2001-2002  
Annual Report*

*State of Michigan*  
*Office of Children's Ombudsman*  
*Annual Report 2001-2002*

**Investigate** Complaints

**Advocate** for Abused and Neglected Children

**Recommend** Changes

**Improve** the Child Welfare System

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# *Mission Statement*

The mission of the Office of the Children's Ombudsman is to assure the safety and well-being of Michigan's children in need of foster care, adoption, and protective services and to promote public confidence in the child welfare system. This will be accomplished through independently investigating complaints, advocating for children, and recommending changes to improve law, policy, and practice for the benefit of current and future generations.





STATE OF MICHIGAN

JENNIFER M. GRANHOLM  
GOVERNOR

OFFICE OF CHILDREN'S OMBUDSMAN  
LANSING

LYNNE MARTINEZ  
DIRECTOR

August 2003

The Honorable Jennifer Granholm, Governor  
Honorable Members of the Michigan Legislature  
Ms. Nannette Bowler, Director, Family Independence Agency

I am pleased to submit the 2001-2002 Annual Report of the Children's Ombudsman pursuant to Public Act 204 of 1994, "The Children's Ombudsman Act." Specifically, section 10(5) states, "*The Ombudsman shall submit to the governor, the director of the department, and the legislature an annual report on the conduct of the Ombudsman, including any recommendations regarding the need for legislation or for change in rules or policies.*"

The purpose of this annual report is to provide an overview of the activities and accomplishments of the Office of Children's Ombudsman from October 1, 2001 to September 30, 2002. It describes our role in the child welfare system, what affect we have had on the lives of children, and identifies recommendations for changes in the child welfare system that were developed as a result of case investigations. We remain committed to our Mission Statement and its charge to investigate complaints, advocate for abused and neglected children and recommend changes with the goal of improving the system for Michigan's children. This report was prepared in part by the Ombudsman of the reporting period, R. Robert Geake.

The staff of the Office of Children's Ombudsman thanks you for the opportunity to serve the children of Michigan, and for your support of our mission.

Respectfully submitted,

Lynne Martinez

Children's Ombudsman

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# Executive Summary

**T**he Office of Children's Ombudsman (OCO) was established by Public Act 204 of 1994,<sup>1</sup> MCL 722.921, et seq, as an autonomous agency with the statutory responsibility to independently investigate complaints about children under the supervision of the Family Independence Agency (FIA) and private child-placing agencies.

This seventh annual report discusses the work of the OCO during the twelve-month period beginning October 1, 2001 through September 30, 2002. The purpose of this annual report is to provide information regarding our role in the child welfare system, the impact the OCO has had on the system, and the recommendations we have developed based upon case investigations undertaken during the 2002 fiscal year.

This report consists of eight sections:

Conduct of the Office;  
Operation of the Office; Analysis of Complaint Sources & Complaint Types; Analysis of Closed Cases & Investigative Findings; Issues of Concern; Recommendations for changes in law and policy; Progress on Annual Report Recommendations from 1995-2001; and Appendices.

## Conduct of the Office

The role of the OCO in the multi-faceted child welfare system

and how the system has been impacted by the OCO's actions during this reporting period are described in this section.

There are also descriptions of how the OCO serves as an advocate for children and as a public resource for people who contact our office with a question or concern about the child welfare system. The continued collaboration between the OCO and agencies we investigate is discussed along with a description of outreach activities.

## Operation of the Office

Included in this section is information about the OCO budget, the multi-disciplinary team, staff training, and activities OCO team members have participated in.

- The final adjusted appropriation for fiscal year 2002 was \$1,160,800. As was the case with most other state government agencies, the OCO was required to reduce planned spending.
- The 13 full-time staff members include 10 investigators with varied professional backgrounds.
- Investigative staff training continues to be a focus for professional development.

## Analysis of Complaint Sources and Types of Cases Opened

The number of calls received and the complaint source, or the relationship a caller has with a child, are among the many statistics provided in this section. Some key statistics include:

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<sup>1</sup> Effective January 1, 1995.

- 821 calls involving 1,350 children were received.<sup>2</sup>
- 145 complaints were opened for investigation.
- Parents, foster parents, grandparents and other relatives filed 542 complaints.
- The Ombudsman was the complainant in 66 new cases.

## Analysis of Closed Cases & Investigative Findings

This section includes a description of the four methods of case closure and statistics about investigative findings, such as:

- Birth parents were the complainants in 21 of the 86 Children's Protective Services investigations closed.
- The OCO affirmed FIA and/or the private agency in 83 of the 154 investigated cases.
- 62 Reports of Findings and Recommendations were issued encompassing a total of 354 individual findings.
- 232 (66 percent) of the findings made in the issued Reports of Findings and Recommendations involved noncompliance with FIA policy or law.
- 9 of the 154 investigated cases were closed by means other than an affirmation or Report of Findings and Recommendations.

## Issues of Concern

As a result of OCO investigations conducted during this reporting period, this section

highlights nine key issues the OCO continues to identify as problematic. These recurring issues were noted in our Reports of Findings and Recommendations issued this fiscal year.

## Recommendations for 2001-2002

This section outlines seven recommendations that resulted from complaints and/or case investigations.

Two recommendations regarding accurately assessing risk to a new child and sharing CPS information with the Friend of the Court were included in previous OCO annual reports and are repeated in this report. Each recommendation is followed by a rationale, and some include a case example. The Family Independence Agency's response to each of the recommendations is also included.

The recommendations focus on the following:

1. Accurately assessing the risk to a new child
2. Requiring that original allegations in a petition be heard by the court
3. Providing information to relatives with whom the agency is considering placement
4. Creation of a centralized database to track adoption information
5. Studying the effectiveness of Michigan's family preservation programs
6. Providing CPS information to the Friend of the Court
7. Providing access to mental health services for children

<sup>2</sup> A breakdown of the calls is as follows: 109 referrals, 147 inquiries, 420 valid complaints-not opened, and 145 cases opened for investigation

in lieu of a parent pleading  
to neglect and relinquishing  
custody

Additionally, an addendum to our recommendations is included that briefly describes a December 2002 report compiled as a result of an audit of FIA programs by the U.S. Department of Health and Human Services Child and Family Services Review (CFSR). The CFSR findings are similar to findings made by the OCO in this annual report and those made in many of our Reports of Findings and Recommendations.

## **Progress on Annual Report Recommendations: 1995- 2001**

This section provides statistics regarding recommendations made in previous OCO annual reports that have been implemented by FIA, in addition to recommendations for legislative changes that have not been implemented.

## **Appendices**

This section consists of:

- Acknowledgments
- A chart depicting the number of investigations by county
- A narrative of the OCO's complaint process and investigative procedures
- A flowchart of the intake process
- A flowchart of the investigative process
- A list of training conferences attended by OCO staff
- Public Act 204 of 1994

# Conduct of the Office

**Om•buds•man**  
**n.** 1. a government official appointed to receive and investigate complaints made by individuals against abuses 2. one that investigates reported complaints, reports findings, and helps to achieve equitable settlements.

Merriam-Webster's  
Collegiate Dictionary

Established in 1994, the Office of Children's Ombudsman was created to address concerns the Michigan Legislature had about a lack of oversight and accountability in the child welfare system with respect to cases involving abused and neglected children. The Family Independence Agency and private child-placing agencies lacked the checks and balances the Legislature believed was necessary to ensure the safety and well-being of the state's most vulnerable citizens.

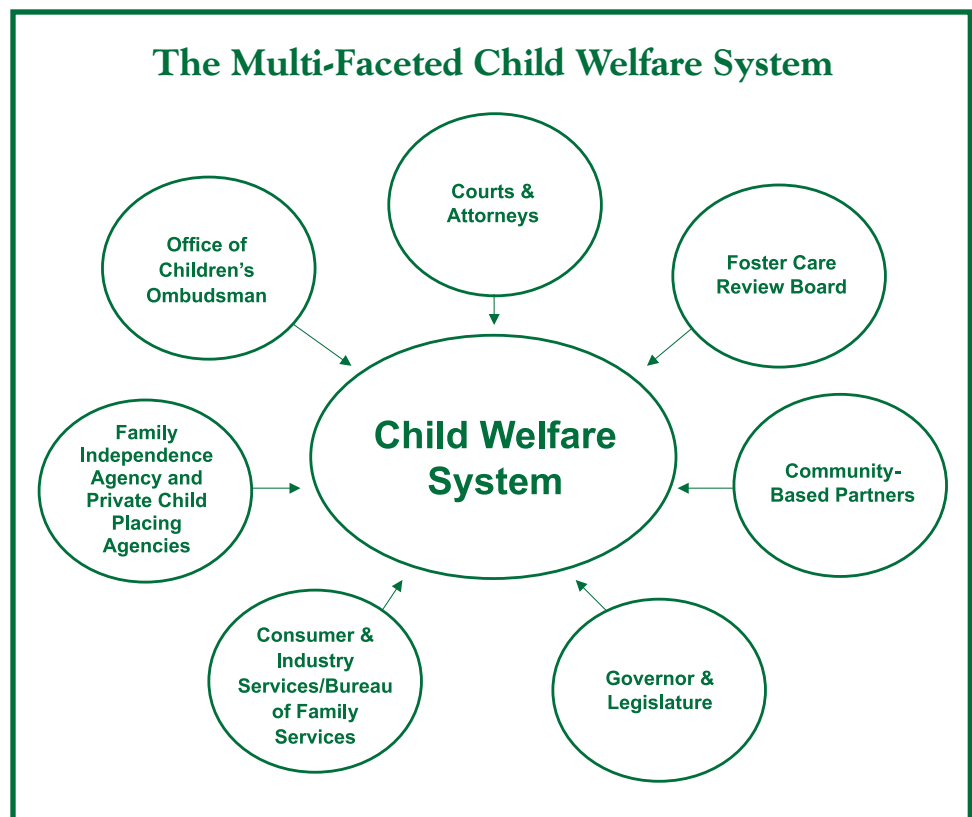
The Legislature was also concerned that confidentiality laws hindered the ability of the public and outside entities from scrutinizing individual cases that

were allegedly mishandled and understanding how the system works.

Public Act 204 of 1994 gave the OCO the authority to "investigate an administrative act that is alleged to be contrary to law, rule, or contrary to policy of the department [FIA] or child placing agency...." The Ombudsman is also charged with making "recommendations to the department or child placing agency" in addition to recommendations to the Governor and the Legislature concerning the need for protective services, adoption, or foster care legislation.

## The OCO's Role in a Multi-faceted Child Welfare System

The OCO is only one component of the child welfare system. Each facet of the system can have an impact on a child involved in children's protective



services, foster care, or adoption; and all facets must work together to ensure a child's safety and well-being. The chart on the previous page shows some of the other components of the system.

The OCO has the authority to investigate only the actions of FIA and private child-placing agencies. However, the OCO often reviews case files that include reports and information from other facets of the system. While our investigation of a case may result in a determination that FIA or the private agency acted in accordance with laws or policies, it is possible that another part of the system did not, leading to the breakdown in the handling of a case. If the problem in a case stems from an entity other than FIA or a private agency, the OCO may not be able to successfully resolve the concerns and may have to refer the complainant elsewhere.

It is the responsibility of each component in the child welfare system individually and collectively to work toward ensuring safety, well-being and permanency for children.

## The OCO as an Advocate for Children

Since January 1, 1995, complaints to the OCO have involved 7,565 children, an average of about 101 children per month.

In addition to fulfilling legal mandates, the OCO has made it part of our mission to advocate for children who are the subjects of complaints filed with our office. The OCO advocates for children in the following ways:

### ◆ Requests For Action to FIA or a private child-placing agency:

If during the course of an investigation the OCO believes that an immediate or specific course of action by the agency is required to protect a child, the OCO issues a Request For Action (either written, verbal, or e-mail) detailing the situation and asking the agency to respond in a particular way. For example, the OCO may request that CPS conduct an immediate home visit to ensure a child's safety, or ask the agency to file a court petition for jurisdiction or removal of a child from an unsafe home. Some of the Requests for Action made during this reporting period included the following:

- A comprehensive safety assessment be conducted in a situation where a new child was born and allowed to remain in the home when siblings were in out-of-home care. Result: A meeting among agency staff was held, a court petition was filed, and the child was removed from the home.

## Ad•vo•cate: n.

1. To support or urge by argument; recommend publicly. 2. A person who speaks or writes in support of a cause, person, etc. 3. A person who pleads for or in behalf of another; intercessor.

Random House Webster's College Dictionary

## Children Assisted Since 1995

Reporting Period (FY)	96-97	97-98	98-99	99-00	00-01	01-02	Totals
Num. of Complaints	564	533	698	713	815	821	4,144
Avg. Complaints/Month	47.0	44.4	46.9	59.4	68	68	55.6
Num. of Children Assisted	1,121	1,063	1,490	1,267	1,274	1,350	7,565
Avg. Num. of Children/Month	93.4	89	99	105	106	112	101

- CPS remain involved in a case, verify the child's safety and file a court petition. Result: CPS reinvestigated and filed a court petition requesting removal of the child.
  - A private agency verify the well-being of a child in a licensed foster home. Result: A licensing investigation of the foster home was conducted and the child's safety assured.
- ◆ Letters to the Court: Although used infrequently, the OCO has written letters to the court in situations where the best interests of a child warrant contact with the judge or referee making decisions regarding permanency or other issues. Sometimes these letters support the agency's recommendations to the court and sometimes they do not. A copy of the letter is always sent to the agency involved and all necessary parties.
- ◆ Supporting the agency in court: Occasionally, OCO investigators attend court hearings on cases under investigation in order to personally observe the proceedings or provide support to the agency handling the case. Sometimes the fact that the OCO is involved and supportive of the agency's efforts has a direct impact on the case.

### **OCO as a Public Resource**

- ◆ Provide information to every caller. Although a complaint may involve CPS, FC, or adoption, it may not be opened

for investigation. During this fiscal year, 420 calls categorized as "valid complaints-not opened" were received, but did not otherwise meet the criteria necessary for opening the case for investigation. For example, a complaint might concern an event which occurred many years prior and involvement by the OCO would not serve any purpose, or a complaint is about an issue that has since been addressed through new policy or law. In some cases, the complainant may request an outcome that the OCO has no authority to provide, such as restoring parental rights; or the complainant simply disagrees with the agency's actions, even though the agency has complied with law and policy. If a valid complaint is not opened for investigation, a verbal or written decision and explanation is provided to the complainant along with additional information or suggestions that might be helpful.

Additionally, the OCO received 256 calls from the public that were determined to be either inquiries or referrals.

During this reporting period, 147 calls were inquiries. An inquiry can be a general question about the child welfare system, or a concern about an issue over which the OCO does not have jurisdiction to investigate, such as: custody matters, child support, school issues, or juvenile delinquency.

A referral is a complaint about CPS, foster care or adoption,



but does not involve FIA or a private agency, but instead is about an entity the OCO is not authorized to investigate, such as the court, prosecutor's office, or law enforcement. A total of 109 referral calls were received by the OCO this fiscal year.

Even though a complaint may not be investigated, the OCO attempts to assist the caller whose concern is an inquiry or referral by providing information that will be helpful in addressing the caller's concerns. Information is provided verbally, by e-mail, fax, or a specially tailored letter from the Ombudsman.

- ◆ Brochure – The OCO brochure contains information about who may formally file a complaint with the OCO pursuant to PA 204, how to file a complaint, and a brief overview of the investigative process. Our brochure is mailed to each complainant upon notification of case opening and to complainants receiving referral letters. The brochure is also made available at statewide conferences or upon request to various agencies or groups.
- ◆ Website – In addition to providing detailed information about the office for the general public, the OCO website also provides specific information for foster parents and relative caregivers, including instructions to address common concerns they may have about the handling of a case. Electronic versions of our annual reports are also available. The website address

is: <http://www.michigan.gov/oco>.

## **Continued Collaboration Among OCO, FIA, and Private Child-placing Agencies**

The OCO continues to meet regularly with the FIA Family Advocate and with FIA Central Office administrative staff as necessary to discuss FIA policy, individual cases or issues. The OCO is also asked by FIA to provide input on proposed changes to policy. Interagency cooperation is one of the most important ways to affect changes in the child welfare system. Without mutual respect and mutual understanding of the respective roles the OCO and FIA play in the child welfare system, change would be difficult.

## **Outreach**

The Ombudsman and several OCO investigators serve on many boards and committees: Substance Abuse; Foster Care Review Boards; Child Death Review Team; Citizen Review Panel; Child Abuse Conference Planning Committee; Court Improvement, and the Prosecuting Attorneys Association-Child Abuse Training Services Seminar Advisory Committee. The Ombudsman represented the OCO at the meetings of the Child Support Leadership Council and the Child and Family Services Review Team.

The OCO hosts the bimonthly meetings of the Michigan chapter of the American Professional Society on the Abuse of Children. Known as MIPSAC, the Michigan chapter consists of professionals serving children such

*Without mutual respect and mutual understanding of the respective roles the OCO and FIA play in the child welfare system, change would be difficult.*



as: pediatricians; attorneys; social workers; law enforcement and OCO staff members who meet to network and discuss issues related to abused and neglected children in our state.

During this fiscal year, individuals and groups requested or were invited to come to the OCO to share information. A representative from the Ingham County Health Department spoke to OCO staff about sexually transmitted diseases among children in the county, the Michigan Adoption Resource Exchange provided information about the adoption process, and representatives from the U.S. Department of Health and Human Services requested input from OCO staff regarding the FIA federal audit.

The Ombudsman and members of the investigative staff also gave presentations at training conferences across the state and to various groups. Presentations were made during this reporting period to groups including: Wayne County Foster Care Review Board, Lenawee County Community Mental Health, and the Michigan Federation for Children and Families.

OCO investigators also traveled with the FIA Family Advocate to a few FIA county offices and several private agencies during this reporting period. The purpose of these presentations was to provide information to the staff about the respective roles of the OCO and FIA Family Advocate, and to reinforce the importance of working cooperatively in an effort to improve the child welfare system.

# Operation of the Office

## Budget

PA 204 Section 4(1) states, “the Ombudsman shall establish procedures for budgeting, expending funds, and employing personnel.” The OCO, along with other state offices, was asked to make budget cuts during the fiscal year as a result of the state’s budget deficit. The OCO cut approximately \$61,000 from the original 2001-2002 appropriated amount. The final adjusted appropriation was \$1,160,800.

The majority of the OCO’s budget expenditures are for the 13 full-time employees and offices in Lansing and Detroit. Funds were also used for administrative functions, conference/training fees, travel, and to update the OCO website and computer database.

## Multi-Disciplinary Team

The Ombudsman during this reporting period, R. Robert Geake, Ph.D., served in the Michigan Legislature for 26 years prior to joining the OCO as an investigator in 1999. He was appointed Ombudsman in late 2001 and served until the end of 2002.

The investigative staff has over 100 years of combined experience and knowledge in a variety of disciplines related to the area of child welfare. In addition, many of our investigators have advanced degrees and are committed to continuing education.

The investigative team members include:

- ◆ A retired Michigan State Police officer who served over 25 years, including six years as an internal affairs investigator.
- ◆ A former assistant prosecuting attorney of child sex abuse cases with experience as a law clerk and legal researcher.
- ◆ A retired police investigator from the Detroit Police Department who served over 25 years, including 13 years in the DPD Child Abuse Unit.
- ◆ A former Children’s Protective Services worker with experience handling cases involving Native American children, and experience as a program manager and group social worker for emergency shelter homes and residential treatment facilities.
- ◆ A former educator and counselor with experience in prevention services with a private social services agency.
- ◆ A social worker with FIA and private agency experience in foster care case management and foster home licensing.
- ◆ A former FIA employee with 20 years of experience, including 6 years as a foster home licensing and recruitment specialist.
- ◆ A former FIA employee with 7 years of experience as a Children’s Protective Services worker in Wayne County, and 10 years of experience as a direct care worker in mental health services.
- ◆ A former FIA employee with 10 years of experience as a Children’s Protective Services

worker and trainer for FIA's Child Welfare Institute.

- ◆ A former supervisor in both foster care and Children's Protective Services with a total of 28 years of experience joined the team in June 2002.

The multi-disciplinary team approach is used throughout the investigative process. Each member of the investigative team has a unique perspective that plays a significant role when reviewing various aspects of a case.

In addition to the investigative team, OCO has two administrative support staff who are invaluable in ensuring that the office is run efficiently. Their duties include, but are not limited to, answering more than 800 phone calls per year, ordering case files, finalizing all written correspondence, updating the computer database, and compiling statistical information used internally and for our annual reports.

## Staff Training

Some of the training conferences the Ombudsman and OCO investigators attended were:

- "Listening to Children's Voices: Reducing the Emotional Damage to Children During Removal and Placement in Foster Care" hosted by the MSU School of Social Work and Detroit College of Law at Michigan State University
- The Eighth Annual Children's Protective Services Medical Committee Conference sponsored by FIA
- ARCAN-Consortium for Applied Research on Child

Abuse and Neglect, co-hosted by FIA and the Merrill-Palmer Institute of Wayne State University

- Infant Deaths in Michigan
- "Strong Partners: Cooperating to Achieve Improved Access and Quality" by the Michigan Association of Community Mental Health Boards
- Prosecuting Attorney Association of Michigan Specialized Child Abuse Training—Current Issues in Child Abuse and Neglect

A complete list of the training conferences can be found in Appendix F.

## Operating Protocol

During this fiscal year, the OCO revised and updated its Investigator's Guide. A committee of four investigators and the executive assistant met over several weeks to update the guide for presentation to the entire OCO staff. The Investigator's Guide is an internal, general outline for investigating a case from start to finish. It has proven to be a valuable resource for the investigators.

The OCO and FIA continue to abide by the Memorandum of Understanding as agreed to in June 2001. It outlines a procedure for requesting case file documentation, the processing of OCO's requests for documentation, and time frames for responding to reports issued by the OCO to FIA. A protocol for conducting preliminary investigations remains in place.

# *Analysis of Complaint Sources & Types of Cases Opened*

## **Complaint Sources**

The OCO's primary responsibility is to receive and investigate complaints from individuals concerning children involved in children's protective services, foster care, or adoption cases. Understanding that the OCO is a complaint office is critical to comprehending our investigative role and our duty to determine whether violations of policy, procedure, or law occurred. Each complaint is unique and important to the concerned individual who contacts the OCO. Complainants have varying degrees of understanding about the child welfare system. Therefore, the OCO intake investigator spends a considerable amount of time speaking<sup>3</sup> with each complainant and gathering sufficient information to determine the issues involved. The Ombudsman then makes an informed decision regarding whether or not to open the case for investigation and what the focus of the investigation should be.

As is often the case, the OCO may require that complainants attempt to resolve their concerns

by other means (e.g. filing a grievance with the agency, pursuing an appeal with the Foster Care Review Board, or consulting an attorney) before the Ombudsman makes a decision to open the case for investigation.

During the reporting period beginning October 1, 2001 through September 30, 2002, the OCO received 821 calls involving 1,350 children from 77 of Michigan's 83 counties. Forty-eight counties were investigated at least once during the fiscal year.<sup>4</sup> An average of 112 children were the subjects of calls each month. During the 2001 fiscal year, 815 calls were received involving 1,274 children.

PA 204 establishes the individuals who may formally file a complaint with the OCO. They include:

- A child who can articulate their complaint
- The child's biological parent
- A foster parent
- An adoptive or prospective adoptive parent
- A legal guardian
- A Guardian Ad Litem
- An adult related by 5th degree of blood, marriage, or adoption
- A Michigan legislator
- An attorney for any of the above
- The Children's Ombudsman

Other individuals may make complaints to the OCO. However, because they are not identified as statutory complainants, they cannot receive information about our investigation of their

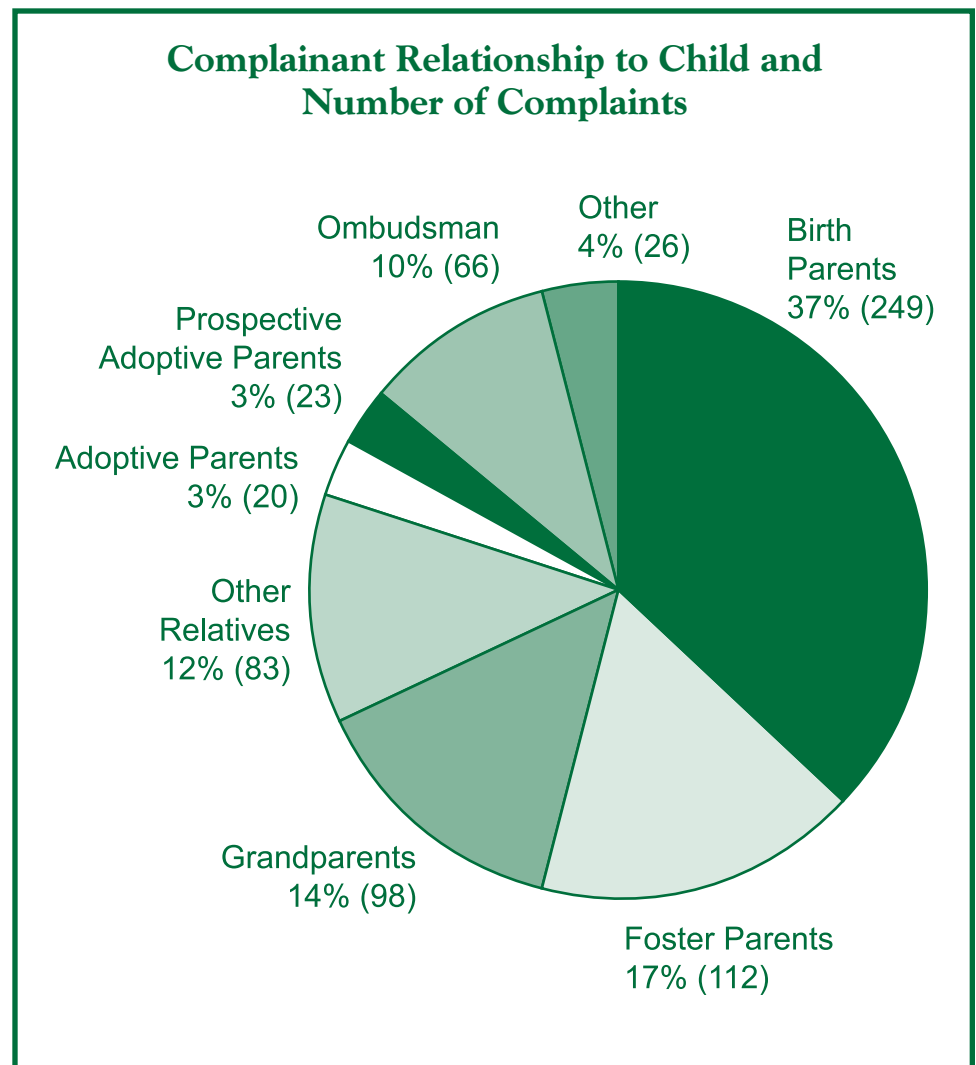
*Each complaint is unique and important to the concerned individual who contacts the OCO.*

<sup>3</sup> The majority of OCO complaints are received via telephone.

<sup>4</sup> See Appendix B for a list of the number of investigations in each county. In some cases, both an affirmation and an F&R may have been written; therefore, the case was counted twice.

complaint. In instances when a case is opened for investigation based on a complaint from a non-statutory complainant, the Ombudsman is listed as the complainant pursuant to Section 5 of PA 204. In addition, the Ombudsman may, at his or her own discretion, open a case for investigation as described in PA 204 Section 6(a). Investigations that may commence pursuant to this section of the law are sometimes the result of a newspaper article about a child who died or had been maltreated where FIA or a private agency had been involved with the family.

Of the 821 calls received, 677 fit into 1 of 18 complainant relationship categories. The category is determined by the relationship the caller has to the child (birth parent, grandparent, other relative, foster parent, etc.). These relationship categories are compiled in a computer database; however, relationship categories are not tracked for referrals and inquiries. The largest source of the 677 complaints is birth parents who represent 249 or 37 percent of the identified complainants who contacted the OCO during this reporting period.



Seven of the eighteen relationship categories<sup>5</sup> represent 96 percent or 651 of the complaints received.

## Cases Opened During Reporting Period

One hundred forty-five (145) cases were opened for investigation during this reporting period. The majority, 77 or 53 percent involved children's protective services (CPS). Below are the number and type of complaints opened for investigation:

Children's Protective Services	77
Foster Care (FC)	28
Adoption Services (AS)	7
Combination	33

Complaints about agency case handling in all three programs (CPS, FC, AS) have been relatively consistent from year to year.<sup>6</sup> Common complaints involving CPS case handling allege:

- Failure to adequately respond when abuse or neglect is confirmed.
- Lack of thorough investigations.
- Inappropriate/unjustified removal of a child.
- General inaction (lack of response).

Some of the most common foster care complaints are:

- Lack of information to foster parents or kinship caregivers.
- A child was improperly removed from a foster home.
- Permanency plans to return children to the parents were inadequate since the parents have not rectified the conditions that led to the child's removal from the home.
- Relatives were not considered for placement.

Although the OCO receives few complaints about adoption case handling each year, those that are received are most often about the selection of an adoptive family and an agency's response to concerns that arise after an adoption has been finalized.

Combination cases involve at least two of the case types (CPS, FC, AS) and involve several issues.

<sup>5</sup> The remaining 11 consists of attorneys for anyone listed in PA 204, the child, legal guardian, guardian ad litem, or legislator. These are represented in the "other" category of the pie chart.

<sup>6</sup> These are only complaints as received from the complainant prior to any investigation or determination by the OCO as to validity.



# *Analysis of Closed Cases & Investigative Findings*

## **Case Closure Types**

During this reporting period, the OCO completed 154 investigations.

The OCO has four different case closure types: Affirmation, Report of Findings and Recommendations (F&R), Administrative Resolution, and Exceptional Closing. The two most common closure types are Affirmations and F&Rs.

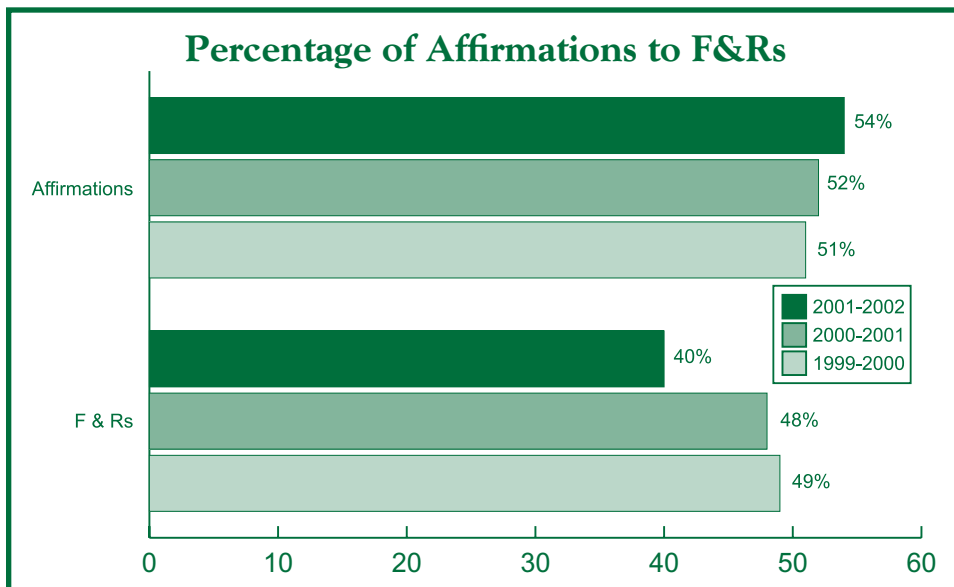
- ◆ Affirmations When the results of an OCO investigation indicate that the complainant's concerns were appropriately handled by the agency, the complainant receives an affirmation letter and the case is closed. While an affirmation does not necessarily mean an absence of problematic issues in a case, it does mean that the agency's actions were in compliance with law, rule, and policy. Eighty-three cases (54%) were closed affirming agency actions during this reporting period.
- ◆ Reports of Findings and Recommendations (F&R) The OCO issues an F&R at the conclusion of an investigation in the following situations:
  - Violations of policy, procedure or law are found;

- Changes in policy are warranted;
- New policy should be created;
- Decision making was not consistent with the case facts or the child's best interest.

In addition to the findings and recommendations, the F&R contains a synopsis of the case facts that serves as support for each finding and recommendation made at the end of the report. A total of 62 F&Rs (40% of the completed investigations) were issued during this reporting period encompassing 354 separate findings.

The agency(ies) responds to the OCO in writing either agreeing or disagreeing with each of the findings and recommendations made in the F&R. PA 204 section 10(3) and (4) requires the Ombudsman to "...notify the complainant of the actions taken by the Ombudsman and by the department or child placing agency; (4)...provide the complainant with a copy of its recommendations on a complaint." Once the OCO receives the agency's written response, a letter containing the OCO's recommendations, the agency's response to those recommendations and any action taken by the agency is sent to the complainant.

As shown in the bar graph on the next page, the percentage of affirmations compared to the number of F&Rs has remained relatively consistent during the past three reporting periods. The 2001-2002 figures do not total 100 percent because nine cases were closed via an exceptional closing or administrative resolution.



*154 cases were closed this reporting period.*

- ◆ Administrative Resolution  
This type of closing is used when the OCO determines that violations of policy and procedure were identified, but an expedited action by the agency involved is necessary to correct the problem. In these cases, the OCO requests the agency take certain action to protect a child or correct an action. If the agency takes the requested action, the OCO case is closed. No lengthy F&R report is issued to the agency. An administrative resolution closing is appropriate because the agency took the requested action to address the complainant's concern and the OCO determined there were no additional matters that required attention. The OCO sends a letter to the complainant notifying them of the actions taken by the OCO and the agency.

Four cases were closed this reporting period as administrative resolutions.

- ◆ Exceptional Closings This type of case closing is used in the

following situations:

- The complainant withdraws their complaint and requests that the investigation be terminated,
- The agency addressed the complaint issue prior to or during the OCO investigation,
- Changes in FIA policy or law relative to the complainant's issue occurred during the course of the OCO's investigation,
- Continued involvement by the OCO would have no effect on the outcome of the case, or
- The issues in the case have been previously investigated by the OCO and addressed in either F&Rs or previous annual reports.

This case closure type was used in five cases during the reporting period.

### Closed Cases

As previously stated, a total of 154 cases were closed during this reporting period. One hundred forty-five cases were closed with either an F&R or affirmation



## Complaint Source<sup>7</sup> and Closed Cases

October 1, 2001 to September 30, 2002

Total Cases Closed = 154

*Sixty-two (62) F&Rs were issued to FIA and/or a private child-placing agency during this fiscal year, which included a total of 354 individual findings.*

Children's Protective Services (CPS) Total = 86	Foster Care (FC) Total = 33	Adoption Services (AS) Total = 6	Combination Total = 29
Ombudsman 31	Foster parents 18	Grandparents 2	Ombudsman 8
Birth parents 21	Birth parents 6	Birth parents 1	Foster parents 8
Grandparents 12	Ombudsman 4	Adop. parents 1	Birth parents 5
Other relatives 13	Grandparents 3	Prospective adoptive parents 1	Other relatives 4
Foster parents 3	Other relatives 2	Other relatives 1	Grandparents 2
Attorneys 3			Attorney 1
Child 1			Prospective adoptive parents 1
Prospective adoptive parents 1			
Legislator 1			

letter. Nine cases were closed via an exceptional closing or administrative resolution.

### ◆ Children's Protective Services (CPS)

In analyzing the 86 closed CPS investigations during this fiscal year, 36 resulted in an F&R and 45 were affirmed. In addition, one investigation was closed as an exceptional closing and four as administrative resolutions.

- ◆ Foster Care (FC) As shown in the chart, foster parents were complainants in 18 of the 33 closed FC cases. The issues involved vary from case to case; however, most were about agency plans to return children to birth parents, and replacing the foster child into another foster home or with a relative. Three of these FC cases were closed as exceptional closings.

### ◆ Adoption Services (AS)

The number of AS case investigations is relatively small compared to the other complaint types. Six AS complaint investigations were closed in the 2000-2001 reporting period.

- ◆ Combination Combination cases involve two or three programs (CPS, FC, and AS). These cases tend to be the most complex because of the numerous issues involved and the size of the case file that must be read. Twenty-eight combination cases were closed during this reporting period with either an F&R or affirmation, and one additional case was closed as an exceptional closing.

## Investigative Findings

Findings made in F&Rs are grouped into four main categories: noncompliance with law or policy, poor practice/decision making, current law or policy is inadequate, and systems issues.

Sixty-two (62) F&Rs were issued<sup>8</sup> to FIA and/or a private

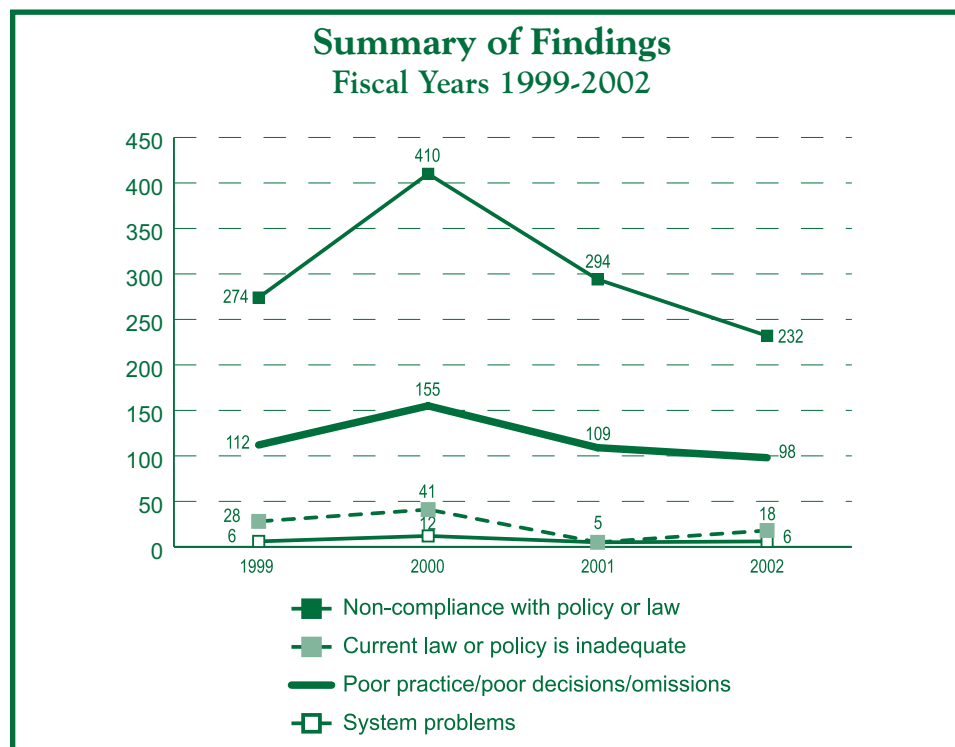
<sup>7</sup> The OCO database does not keep track of co-complainants, only those listed as the original complainant.

<sup>8</sup> F&Rs that are issued to agencies late in the fiscal year cannot be counted as closed until the agency's response is received and the complainant has been notified. This often does not occur until the next fiscal year at which time the case is officially closed.

child-placing agency during this fiscal year, which included a total of 354 individual findings.

- ◆ Non-compliance with law or policy. As indicated in the Summary of Findings line chart, OCO findings over the past four years continue to reflect results that show non-compliance with existing policies and procedures as most prevalent. The OCO has found that for the most part, current FIA policies are adequate in outlining the actions workers must take. Since the overwhelming majority of our findings have involved non-compliance with current law and policies, we have made recommendations that address practice and performance issues. Numerous recommendations have called for adequate resources, including additional workers, improved training, and increased or improved supervision.

- ◆ Poor practice/decision making. In cases where the OCO determined that poor practice, poor decisions, or omissions were made by the agency, the OCO found that policies were followed, but agency decisions were inconsistent with the case facts and/or the children's best interest. Some of the recommendations made were for training and increased supervision.
- ◆ Current policy/law inadequate. In cases where the OCO found current policy or law inadequate, we recommended changes in policy or law or the creation of new policy or law.
- ◆ Systems problems. Although the OCO does not have jurisdiction to investigate other facets of the child welfare system and their affect on a child's case, the OCO has identified systems problems in a small number of cases investigated this fiscal



year. Issues such as lack of legal representation for FIA and court problems are some examples. Recommendations made in cases where systems problems were identified focus on improving the relationship between the individuals and entities involved in the case or requesting that legislative changes be considered.

## Issues of Concern

This section of our Annual Report describes eight identified issues that recurred in the course of investigating complaints during this fiscal year. These issues of concern are actions, omissions, or practices by agency personnel that are some of the most crucial to child safety, affect a child's placement in foster care, and inhibit a caseworker's ability to properly handle a case. Each of these issues was the subject of many of our F&Rs, and some have been addressed in previous Annual Report recommendations.

The following eight issues of concern were identified during this reporting period:

- Improving supervisory oversight.\*
- Problematic placement and replacement of foster children.
- Failure to meet required contact standards during CPS and FC cases.\*
- Need for worker training.
- Inadequate or no documentation of case history.\*

\* Issues previously raised in OCO annual reports.

Issue of Concern	Number of times issue was identified	Number of F&Rs
Supervisory oversight	21	15
Placement and replacement of foster children	19	8
Making required contacts	15	13
Worker training	11	10
Documenting case history	10	10
Interviewing necessary and required people during CPS investigation	10	7
Verifying the well-being of all children in the home	9	8
Completion of assessment forms	8	5

- Failing to interview necessary and required people during a CPS investigation.
- Failing to verify the well-being of all children in the home.\*
- Improper completion of the Safety, Risk, and Strengths & Needs Assessments.

As a complaint-driven agency, each F&R represents one or more children whose case was not handled according to agency policy, procedure, and/or applicable laws, or sometimes deals with FIA policy that was followed, but the OCO found was inadequate.

The 62 F&Rs issued during this reporting period involved almost 200 children.

The chart below depicts the number of times each issue of concern was identified in a case. The second column shows the total number of F&Rs or cases where the issue arose. For example, the issue "Supervisory Oversight" was identified 21 times in 15 separate F&Rs.

- ◆ Supervisory oversight. The OCO identified this issue as a concern numerous times. Caseworkers submitted reports to their supervisors for signature

*...each F&R represents a child or children whose case was not handled according to agency policy, procedure, and/or applicable laws. ...The F&Rs issued during this reporting period involved almost 200 children.*

and approval when policy, law and/or procedure were not followed. Even though these violations were identified during the subsequent OCO investigation, the supervisor did not recognize the violations and approved the reports.

- ◆ Placement and replacement of foster children. After children are removed from home, they are sometimes moved to several different foster homes. Placement decisions have a significant impact on a child's sense of stability and well-being and play a key role if the child later becomes available for adoption. Multiple placements have a serious negative impact on a child's ability to establish relationships and form attachments with adults. The OCO found that agencies were not always providing information to foster parents regarding why the child was being removed from their home as required by policy and law. Additionally, seeking out relatives early in the process (i.e. within 30 days of removal from birth parents) was not consistently followed in some of the investigated cases.
- ◆ Making required contacts. This was identified as an area of concern in both CPS and foster care cases. For instance, in some of the CPS cases, the OCO noted that caseworkers did not meet with the child the required number of times during an open, high-risk or intensive-risk CPS case. In foster care cases, the OCO determined that caseworkers were not making all of the required face-to-face contacts with the parents or children in their foster homes. This issue occurred 15 times in 13 separate F&Rs
- ◆ Worker training. The OCO continues to identify cases where policies and procedures were not followed because a worker was either not aware of the policy or did not understand how to carry out a particular procedure. Training issues occurred in both CPS and FC cases.
- ◆ Documenting case history. This area of concern centers on the worker's lack of documentation of a family's previous involvement with CPS. If a family's history is not included as part of the case file and reviewed, a child's safety could be jeopardized, especially if there are subsequent CPS investigations. In the investigated cases, the OCO found: 1) previous CPS history was not reviewed at all, or 2) CPS history was reviewed but nothing was documented in the file in an effort to show how it might relate to the situation CPS was currently investigating.
- ◆ Interviewing necessary and required people during a CPS investigation. This issue of concern is about workers not speaking to collateral sources (teachers, counselors, relatives, etc.) who may be able to provide information about a CPS complaint that would assist the worker in verifying whether allegations of abuse or neglect are true.

- ◆ Verifying the well-being of all children in a home. In each of the eight cases where this issue was identified, CPS did not see and/or interview all children in a home. Even though the worker may have interviewed the alleged victim, there was no documentation showing that siblings or other children in the home were interviewed in an attempt to ensure their safety.
- ◆ Completion of assessment forms. Workers are required to complete safety, needs and strengths, and risk assessment forms at the beginning of some cases and at various times throughout a case. The OCO found that workers were not always properly completing the forms, which have led to improper identification of risk of harm and child safety. This issue occurred in five separate F&Rs a total of eight times.

## Rec•co•mend:

**vt.** 1a. To present as worthy of acceptance or trial. b. To endorse as fit, worthy or competent.

Merriam-Webster's College Dictionary

# Recommendations for 2001-2002

When violations of policy, law, and/or procedure are identified, new policy should be created or existing policy should be modified, the OCO writes a Report of Findings and Recommendations (F&R) to the involved agencies. The agencies respond to the F&R either agreeing or disagreeing with the findings and recommendations. Our complainants receive the OCO's recommendations, the agency's response to those recommendations, and any action that was taken. The recommendations are based upon the findings discussed in the F&R that were the result of the investigation of that particular case.<sup>9</sup>

The following seven recommendations were submitted to FIA for their review and response. The responses appear after each of the recommendations. FIA either fully agreed or agreed in part with each of our 2001-2002 recommendations.

## Children's Protective Services

### 1. Accurately assess risk to a new child

*(Note: Recommendation "a" was made in our 1998-99 Annual Report. FIA agreed with the recommendation at that time.*

*A policy change has not been implemented to date).*

- a. The OCO recommends that FIA clarify existing policy by deleting the word "current" as it relates to risk of harm from Policy 715-3, "Mandatory Petition-Request for Termination of Parental Rights" (effective date 7-1-99). Deleting the word "current" would ensure that policy is consistent with the wording and intent of Section 18(1)(b) of the Child Protection Law which reads, "(1) The Department shall submit a petition for authorization by the court under section 2(b) of chapter XIIA of 1939 PA 288, MCL 712A.2 if 1 or more of the following apply: (b) The department determines that there is risk of harm to the child and either of the following is true...."
- b. The OCO also recommends that FIA amend policy to require that a finding of risk of harm to a new child and a preponderance of evidence of neglect to the new child exists when CPS determines that conditions and behaviors that formed the basis for previous termination of parental rights have not been resolved.

**Rationale:** The OCO acknowledges that CPS conducts a full investigation involving a new child born to parents who have had their parental rights terminated to prior children. Policy also requires that workers review the parents' history of abuse/neglect

<sup>9</sup> PA 204 of 1994 Section 10 (4) requires that the Ombudsman provide the complainant with a copy of the recommendations and does not state that findings can also be released.



and the circumstances that lead to termination of their parental rights. In some cases the OCO has found that the time between termination of parental rights and the birth of a new child is less than a year. Even though there has been insufficient evidence demonstrating that the parents have resolved the circumstances that resulted in the prior termination, the CPS cases on the new children have been closed with a finding of no preponderance of evidence of neglect and no future risk of harm. This practice appears to imply that unresolved problems that lead to prior children being abused or neglected are not relevant to an assessment of risk to the new child.

#### **FIA Response:**

**Agree in part.** The FIA has reviewed current policy and the issues related to this recommendation. As a result of this review, it was determined that policy fails to clearly define “threatened harm.” The Child Protection Law defines child abuse as “...harm or threatened harm to a child’s health or welfare by a parent....” Policy does not define threatened harm or provide a consistent framework for understanding the application of the concept of threatened harm. Therefore, the problem is not in the use of the term “current”;

rather, it is in applying the concept of threatened harm in assessing whether or not a preponderance of evidence currently exists based on historical facts, evidence and parental behavior, in conjunction with a lack of evidence that the parent(s) have taken appropriate steps to rectify conditions that led to the prior termination of parental rights.

The FIA has already initiated a discussion of this issue with the CPS Advisory Committee to work toward a policy clarification specific to the application of the concept of threatened harm in investigations. This would include the development of an operational definition of threatened harm for use in a wide range of situations including, but not limited to, situations in which historical factors heavily impact the current safety of a child. This operational definition could be utilized when making case decisions such as the requirement to file a petition when there is “current” risk of harm (CFP 715-3) or when a known perpetrator moves in with a new family (CFP 716-4). This operational definition would focus on issues such as, but not limited to:

- The nature and scope of the previous offenses
- How recently they occurred
- Whether they involved children of the same age as those at risk in the case being investigated (An important consideration is that sexual offenders frequently look for younger victims than those they previously assaulted.)

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<sup>10</sup> Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

<sup>11</sup> Section 18(2) of the CPL states in part: “In a petition submitted as required by subsection (1), if a parent is a suspected perpetrator or is suspected of placing the child at an unreasonable risk of harm due to the parent’s failure to take reasonable steps to intervene to eliminate that risk, the family independence agency shall include a request for termination of parental rights at the initial dispositional hearing



- Whether the perpetrator successfully completed any treatment programs

Appropriate policy clarification will resolve these issues as applied to Mandatory Petitions and other situations that require an assessment of threatened harm.

## **2. *Require original charges in a petition be heard by the court***

The OCO recommends FIA require that workers allow the court to rule on petitions mandated by the Child Protection Law (CPL) Section 18 as originally filed and not withdraw a request for termination of parental rights as a result of a plea agreement.

**Rationale:** When the results of a CPS investigation indicate that a child has been sexually abused<sup>10</sup> or suffered serious physical abuse by a parent, the CPL mandates that FIA file a petition for jurisdiction of the child that includes a request for termination of parental rights. The intent of the law is to give the court discretion to decide whether the petition allegations that result from evidence gathered during the CPS investigation warrant termination of parental rights or other protective steps for the involved child.

The OCO has reviewed particularly egregious cases during the past fiscal year where the FIA filed a petition that included a request for termination of parental rights as required in Section 18 of the CPL. However, prior to a hearing on the petition as it was originally filed, the agency and assistant prosecutor entered into a plea agreement with the parent(s) and decided to dismiss the request for termination of parental rights.

This agreement did not change the facts of the case or the evidence gathered by CPS during the investigation that indicated the child had been sexually abused or suffered serious physical abuse.

When FIA agrees to dismiss the petition or dismiss the request for termination of parental rights prior to a hearing, it subverts the intent of the law and diminishes protection for the children.

**Case Example:** A four-year-old child sustained blunt force trauma to her abdomen, contusions of the lungs, a skull fracture and bleeding on the brain. She was placed on life support. It was determined that in addition to her present injuries she had three broken ribs that had been sustained several days prior, and numerous old and new bruises. The mother's live-in boyfriend admitted that he struck the child because she was whining and crying. The agency determined that the mother failed to protect her daughter given the extent of the child's injuries. The child's mother said she did not believe that her former boyfriend (now husband) caused the child's injuries even though she had no other explanation of how they could have occurred. FIA filed a petition with the court, as required by the Child Protection Law, and included a request for termination of the mother's parental rights.<sup>11</sup> Prior to a pre-trial hearing, CPS approved a plea agreement whereby the request for termination of the mother's parental rights was deleted. As of the writing of this report, the permanency plan submitted to the court is to reunify the child with the family. Criminal charges against the husband are pending.

## **FIA Response:**

**Agree in part.** The FIA has reviewed this situation carefully. The FIA agrees that, in general, workers should not initiate or negotiate a plea agreement/dismissal on a mandatory termination petition. Section 18 of the Child Protection Law currently requires that the department shall submit a petition for authorization by the court and under certain circumstances shall include a request for termination of parental rights.

However, a local prosecutor, private counsel and/or the Assistant Attorney General's Office (AAG) is in the best position to evaluate the legal viability of a petition, should it be put to the test in the form of a bench or jury trial. Local counsel is also in the best possible position to fully understand and appreciate what it takes to successfully get a case through their court system. For example, in some sexual abuse cases legal counsel may determine that the facts/evidence of the case are not sufficient to withstand a jury trial and/or the victim child is too vulnerable to withstand the rigor of a trial. Consequently, the Prosecuting Attorney (PA), private counsel or the AAG advises that it is necessary to offer a plea on the termination request to gain court jurisdiction over the family. This ensures that the child will not be returned to the perpetrator until it is safe to do so and not prior to an appropriate reduction in risk through court ordered services.

In situations wherein the local PA, private counsel and/or the AAG advises that a plea agreement

is appropriate and necessary, the FIA should carefully consider our legal counsel's advice. That said, the FIA agrees that CPS workers should not be in the position of making a decision whether or not to accept this legal advice, without the benefit of supervisory oversight.

Therefore, the FIA will clarify policy to clearly state that, in general, it is inappropriate for workers to initiate and/or negotiate plea agreements with regard to mandatory termination petitions. However, the FIA will also create policy and protocol that will address situations wherein our legal counsel advises that a plea agreement is appropriate and necessary to secure the protection of a child. In these situations, the worker will be required to obtain supervisory approval before the FIA will support a plea agreement on the record. If supervisory review results in the decision to oppose a plea agreement, the worker will inform the AAG, PA or private counsel that FIA does not support a plea agreement and, if given the opportunity, state so on the record.

### ***3. Provide information to relatives when considering placement***

The OCO recommends that when an FIA or private child-placing agency caseworker is involved with the placement of a child with a relative, the worker provide information to the relative both verbally and in writing (by creation of a pamphlet, handbook, etc.) regarding the legal, technical, and practical implications of the placement type being considered. In order to implement this recommendation, it may be

necessary to provide additional training on this issue to CPS and FC workers and supervisors.

Some examples of the various kinds of placement types that occur include:

- Voluntary/informal placement during a CPS investigation or while CPS has an open case and is providing services
- Voluntary/informal placement where CPS subsequently terminates all involvement with the family
- Guardianship where the agency remains involved but the child is not an abuse/neglect ward
- Guardianship where the agency remains involved and the child is an abuse/neglect ward
- Guardianship where the agency terminates all involvement with the family
- Foster care placement with an unlicensed relative
- Foster care with a licensed relative

The following is representative of the type of information contemplated by this recommendation:

- Who will have legal custody of the child?
- Will the child/relative have a caseworker?
- Will the child/relative receive services?
- Will the child have a Lawyer Guardian Ad Litem?
- Will the parent have a caseworker?
- Will the parent receive services?

- Will the relative receive any financial support? If so, what kind, from whom, and how much?
- Will the court be involved/ remain involved?
- Will the agency be involved/ remain involved?
- What is the long-term goal or permanency plan?

**Rationale:** During the past year as in previous years, the OCO has heard from dozens of relatives caring for abused/neglected children. In some situations, the worker placed a child with a relative pursuant to a petition and court-ordered removal. In other cases, placement with the relative occurred informally as a result of the worker recommending, suggesting, endorsing, or otherwise agreeing with the placement. The OCO has often found that relatives are unable to accurately answer the above questions with respect to their own situations. Even more concerning is the fact that many of these relatives lacked some or all of this information at the time they made the decision or commitment to take the child into their home. Many times, the decision was based on assumptions that later turned out to be false or inaccurate. For example, the relative may have erroneously believed that financial support would be provided, that there would be a caseworker to call for help, or that the parent would be provided services, etc.

With the increasing reliance on kinship care, it is critical that relatives contemplating providing such care have a complete and accurate understanding of what their role will be, as well as the

role, if any, of the agency, the parents, or the court. Without such knowledge at the time of placement, there is a much greater risk of disruption of the placement in the future, which is neither in the relative's nor the child's best interest.

### **FIA Response:**

**Agree.** The FIA agrees that it is important for a prospective relative care provider to have a basic understanding of their role and the agency's role in the anticipated placement. The prospective relative provider also needs a basic understanding of legal, financial and practical implications of a relative placement.

Approximately 30 percent of the children placed in out-of-home placement in Michigan are placed with relatives. State policy requires that relatives be considered first when an out-of-home placement is sought for a child under care. Relatives need to understand that if they are licensed, they are eligible to receive a foster care payment. Some kinship care providers meet different standards than those for non-kin. Once they meet the assessment standards, they are eligible to receive a Temporary Assistance to Needy Families (TANF) child-only grant. Relatives also need to know of support groups for kinship foster parents and grandparent support groups in their area.

Children raised by kinship caregivers are often eligible for a range of state and federal programs.

In most cases, kinship caregivers may apply for these programs on a child's behalf even though they are not the child's parents or legal guardians. Some examples include cash assistance, day care, the food assistance program, and health insurance.

Currently, the MSU Kinship Care Project Office is working to develop a relative handbook. The MSU Kinship Care Project Office projects that the handbook will be completed in April 2003. On February 4, 2003, the FIA forwarded this OCO recommendation and related information to the MSU Kinship Care Project so that the OCO's information can be considered for inclusion in the handbook.

## **ADOPTION**

### ***4. Creation of a centralized database to track adoption information***

The OCO recommends that FIA prioritize efforts to create a centralized database to track a prospective adoptive family's prior applications to adopt children through FIA or any private child-placing agency in Michigan. This proposed adoption database would be similar to the one that enables access to a family's prior foster home licensing records through the Department of Consumer and Industry Services, Bureau of Family Services.

**Rationale:** The OCO has investigated cases where a family is approved by an agency to adopt a child, but the fact that a different agency previously assessed this family and determined they were unsuitable to adopt was

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<sup>12</sup> An Adoptive Family Assessment is designed for families who are not licensed foster parents. Foster Family Assessments are designed specifically for licensed foster parents who want to adopt.

unknown. Reasons for denial may vary, but they should be relevant to subsequent determinations of whether this family should be approved to adopt children. Current FIA adoption policy (CFA 732-50, p. 5) states that an adoption worker, when assessing a prospective adoptive family, should “determine if the family has been assessed by any other agencies anywhere, and document the recommendations of the agency if obtainable.” However, unless the family voluntarily shares the information with the agency, there is currently no way to track a family’s prior application history. A centralized tracking system is needed to enable FIA and private agencies to identify and access a family’s prior adoption records.

Ideally, an agency conducting an Adoptive or Foster Family Assessment<sup>12</sup> should be able to contact FIA to access a centralized clearinghouse and determine: 1) whether the applicant family has ever applied to adopt children through FIA or a private child-placing agency; 2) the name of the agency(s) through which the applicant previously applied to adopt children; and 3) the status or outcome of all prior applications to adopt children. If information warranted (i.e. the family was previously denied), FIA policy would then require the agency assessing the family to obtain the

family’s relevant adoption file and consider the reasons for application denial in light of the current assessment.

### **FIA Response:**

**Agree.** FIA agrees that a database that would allow the FIA/Private Agencies to track applicants for adoption would enhance the agency’s ability to assure that an adoption worker is fully informed about a prospective adoptive parent’s previous adoption evaluations/assessments. This database would need to be accessible to adoption staff in private and public agencies to provide the worker with information about any previous efforts that the applicant has made to be studied for adoption. Often, prospective adoptive families are already licensed foster families and the agency has knowledge of their background including their ability to accept children into their home through adoption. However, not all prospective adoptive parents are licensed at the time they apply to adopt. At this time, there is no centralized database for receiving and storing information about prospective adoptive parents.

Therefore, the FIA will work with the Department of Information Technology (DIT) to pursue the establishment of a centralized database to track information about prospective adoptive parents including the outcome of the determination of their adoption application by the agency.

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<sup>13</sup> Michigan supports many family preservation programs, including: Families First of Michigan, Families Together/Building Solutions, Family Group Decision Making Program, and Family to Family the Kinship Care. Kinship Care is an umbrella term encompassing variants of family preservation programs such as: Family and Community Compact in Kent County and Kinship Care and Family Preservation (KCFP) in Wayne County.



## SYSTEMS ISSUES

### 5. *Study the Effectiveness of Family Preservation Programs in Michigan*

The OCO recommends that the effectiveness of family preservation programs in Michigan<sup>13</sup> be measured in terms of quantifiable, positive outcomes for children, such as child safety, permanency, and physical and emotional well-being. Further, the OCO recommends that funding for programs in Michigan that are proven ineffective in terms of achieving positive outcomes for children be discontinued.

**Rationale:** Child safety and well-being should be the focal points of research and the basis on which decisions about continued funding are made. Michigan should discontinue funding for family preservation programs unless it can be empirically demonstrated that such interventions result in short and long-term stability, permanency, and well-being for children.

#### **FIA Response:**

**Agree.** The use of external evaluators to conduct empirically based research studies, use of FIA key internal outcome measures, and success based outcomes of proven models used with families have all assisted Michigan in implementing family preservation programs which address the individual service needs of high risk and vulnerable families. Continued funding of these programs should not be compromised at the cost to Michigan families. Families First of Michigan, the Family Reunification Program and Family

Group Decision Making have all been studied by researchers external to the agency. Research has demonstrated that these programs result in increased family stability, permanency and improved child well-being. Foundation money and other funding sources have supported the implementation and maintenance of initiatives such as Family to Family (Casey Foundation) Family and Community Compact (Grand Rapids Foundation), and the Family Reunification Program Pilot (Skillman Foundation).

Child safety and well-being is also tracked internally through data collection. Family focused programming uses follow-up data to determine if abuse or neglect has reoccurred, as shown by a finding of preponderance of evidence of abuse or neglect or subsequent out-of-home placement. Client family self-reports (of skills enhanced or taught to reduce risk), focus groups with clients, referring staff, service providers and referring worker satisfaction surveys reinforce the benefits of family preservation programs.

Michigan has demonstrated fiscal integrity in resource development across family preservation programs including in pertinent part, collaborative and internal training, contract monitoring and provision of technical assistance to staff and agencies providing these services. The FIA supports the need for proven interventions with families and will continue to evaluate both services and providers to assure that purchased services are providing safe and lasting benefits to children and families.

University Associates completed studies on Families First of Michigan 1993, and the Skillman Foundation funded a University Associates study of the Family Reunification Program in 1999. Betty Blyth, Ph.D., completed an Effectiveness Study of Families First of Michigan in 1999. Gary Anderson, Ph.D., is completing a study of Family Group Decision Making. That report is due in 2003.

## STATUTORY AMENDMENTS

### 6. *Provide CPS Information to Friend of the Court*

*(Note: A similar recommendation was made in our 1995-96 Annual Report regarding collaboration between CPS and FOC. The recommendation that appears below was made in both 1996-97 and 1998-99. FIA agreed with the recommendation in 1998-99. No legislative amendment has been implemented to date).*

The OCO recommends a statutory amendment to the Child Protection Law requiring the FIA to provide information to the Family Court with jurisdiction over a custody/visitation or guardianship case when CPS finds a preponderance of evidence that a child has been abused or neglected, and:

- a) The FIA is aware that the child is the subject of a court ordered custody/visitation or legal guardianship, and/or
- b) The FIA is aware that the adult perpetrator is a party to a court ordered custody/visitation

action or is a court appointed legal guardian of a child.

**Rationale:** The OCO believes it is critical that family court judges and referees, who are making decisions about a child's living arrangements, custody or visitation, have current children's protective services information to aid in that decision-making process. The OCO finds that information indicating that a child has been abused or neglected or that a parent or guardian has abused or neglected a child is crucial to this decision-making process. While the OCO has found that this information is often made available to courts making custody/visitation and guardianship decisions, there is no established law or policy to ensure that coordination between FIA and the court occurs.

### **FIA Response:**

**Agree.** The FIA agrees, in concept, with the OCO's recommendation, as was asserted in the FIA's response to a similar recommendation in the OCO's 1998-1999 Annual Report; this recommendation would enhance the Michigan's capacity to protect children. However, in order for this type of strategy to work, all of the key parties need to have a common understanding of the need for sharing information and of how/when this information will be shared. The FIA would need to determine if we would limit the sharing of this information to Category II and I cases, or expand it to include Category III. If we include Category III cases, we would need to determine if "due process" would become an issue, etc. Nevertheless, all statutes that

apply to custody/visitation need to be amended to require and reinforce these actions. Moreover, the FIA and the FOC would need to develop a formalized process for the mutual sharing of information. This process would need to consider the confidentiality guidelines of both agencies.

Additionally, the FIA should have the flexibility to report to the FOC those situations wherein parents subject their children to the unnecessary involvement of CPS in their lives to obtain an advantage in a custody battle; these are typically not cases wherein a preponderance of evidence exists. Yet, many of these children are in need of counseling due to the continual acrimony between the parents. The FIA also asserts that the development of a process for the mutual sharing of information between FIA and FOC would result in the reduction of the number of custody related complaints made to CPS. The FIA will initiate collaboration with FOC and will pursue implementation of this recommendation.

## **7. *Provide Greater Access to Mental Health Treatment for Children***

The OCO recommends a law be enacted to prevent parents from having to relinquish custody and plead guilty to neglect of their child solely to obtain residential mental health services deemed necessary for their child's serious mental illness or emotional disorder.

The OCO further recommends that an interagency task force be established to review current child mental health care programs and funding sources, identify

gaps in the system, and develop a comprehensive mental health care system that will meet the needs of all children in Michigan.

**Rationale:** The OCO has received a number of complaints from biological and adoptive parents who are unable to obtain intensive, specialized mental health services for a seriously mentally ill or emotionally disturbed child. Private insurance plans typically limit mental health services to a prescribed number of outpatient visits and, in emergencies, a certain number of inpatient hospital days. A child with a serious mental illness can quickly exceed these limits, and may even require intensive long-term treatment or residential placement, which can place a serious financial burden on the family. In the most extreme cases reported to the OCO, the parent has agreed to plead to a neglect charge under the Child Protection Law, the court adjudicates the parents as neglectful and takes jurisdiction of the child, who now qualifies to receive publicly funded mental health services. The OCO finds it unreasonable that a parent must be adjudicated as neglectful and be placed on the Central Registry in order to obtain mental health services for a seriously mentally ill or emotionally disturbed child.

One alternative is to enact a statute that allows the court to adjudicate a child in need of services, take physical custody of the child only with the consent of the parent, and order the necessary specialized services for the child. However, enacting a statute alone will not address the underlying issues contributing



to the shortcomings of the child mental health system. Therefore, an interagency task force should be established to review the current mental health care system, identify problems, and implement a comprehensive plan that would allow: 1) early identification of mental health needs, and adequate treatment services and supports for both children and their families; 2) adequate access to a wide array of mental health services, including intensive outpatient and residential treatment for all children, regardless of family income and health care coverage; and 3) combined funding from various state agencies to pay for services, allowing access to mental health services for all children.

#### **FIA Response:**

**Agree.** The FIA agrees with the intent of this recommendation. The lack of mental health services to children and their parents has been an important issue to CPS for years. CPS has consistently been put in the position of having to file neglect/dependency petitions on parents who have not been able to obtain mental health services to help them manage their child at home or to manage their child upon discharge from a mental health facility. The FIA asserts that this is an issue that requires both legislation and collaboration with the Department of Community Health (DCH). As such, the Children's Action Network (cabinet level, multi-departmental executive team) under the leadership of the FIA, will be apprised of this issue to ensure executive attention to issues that effect children. The FIA will initiate direct contact with

DCH to begin working toward the development of an action plan to address this situation, to the extent possible, with or without legislation.

### **Addendum to the 2002 Annual Report Recommendations**

During the time that this Annual Report was being prepared, the Michigan Family Independence Agency has received and responded to the US Department of Health and Human Services (HHS) Child and Family Services Review (CFSR). The official HHS Report was received in December 2002, and noted many improvements that have been made in Michigan's Child and Family Services system. It also cited a number of areas where the system does not yet conform to federal requirements. FIA has engaged in earnest in developing a Program Improvement Plan (PIP) in response to the findings contained in the CFSR.

Many of these CFSR findings mirror findings that are highlighted in this OCO report and in our Findings and Recommendations reports issued to FIA on the completion of an OCO investigation. Some of these include: ensuring that Child Protective Services staff are conducting timely and appropriate assessments of risk; completing required interviews with stakeholders in CPS cases; offering and monitoring participation in services to strengthen families and reduce risks; monitoring the safety of foster homes; and supervision of CPS staff to ensure compliance with law and policy.

HHS additionally noted a Statewide Assessment regarding the CPS Workload Study that indicated that the number of CPS workers is not adequate and has not kept pace with increases in the number of investigations and open service cases. While we sincerely appreciate the support that the Michigan Legislature has given to the Office of Children's Ombudsman since its creation in 1995, we strongly encourage the appropriate committees in the House and Senate to work with FIA to implement the Program Improvement Plan.

A sufficient and well-trained workforce of CPS staff and supervisors on the front lines in local FIA offices is the best insurance that the Legislature and the Administration could offer to ensure the safety of our most vulnerable children.

# Progress on Annual Report Recommendations from 1995-2001

**Im•prove: vt. 1.**  
To bring into a more  
desirable or excellent  
condition; make  
better.

Random House Webster's  
College Dictionary

In the OCO's efforts to improve Michigan's child welfare system relative to abused and neglected children and those involved in foster care or adoption, 116 recommendations for changes to

- 1. Friend of the Court Records:**  
The OCO recommends that Friend of the Court reports shall be allowed into evidence in child protective proceedings.

**Fiscal year: 1997**

**FIA response: Agreed**

- 2. Nonparent Adult Definition:** The OCO recommends a statutory amendment to the definition of "nonparent adult" found in MCL 722.622(2)(n)(iii). Currently, MCL 722.622(2)

## Progress on Annual Report Recommendations 1995-2001

Year	Implemented	Partially Implemented	Not Implemented	Total Number
1995-1996	52	8	1	61
1996-1997	11	5	3	19
1997-1998	4	0	1	5
1998-1999	5	1	6	12
1999-2000	2	2	4	8
2000-2001	6	2	3	11
<b>Total</b>	<b>80(69%)</b>	<b>18(15.5%)</b>	<b>18(15.5%)</b>	<b>116</b>

FIA policy and state laws have been made since 1995. Nearly 70 percent of the recommendations have been implemented to date, and 15 percent have been partially implemented.

### **Legislative Recommendations not implemented to date**

A total of eight (8) of our annual report recommendations dealing with changes in laws have not been implemented. The remaining 10 are recommendations that were made to FIA. The eight recommendations are listed below and include the fiscal year in which the recommendation was made and FIA's official response. We continue to support these recommendations:

identifies individuals who may be held responsible for abusing and/or neglecting a child. The "nonparent adult" category allows the State to hold individuals who have substantial and regular contact with the child, and a close relationship with a person responsible for the child's health or welfare, but are not legally responsible for the child, liable for harming that child. The OCO recommends amending subsection (iii) to simply read, "Is not the child's parent." By striking the phrase, "or a person otherwise related to the child by blood or affinity to the third degree," the law

would allow the State to hold relatives, who do not reside in the home, but who have a close, personal relationship with the child, responsible under the definition of “nonparent adult” if they harm the child. At the present time, CPS is unable to substantiate and list such an individual as a perpetrator on the Central Registry.

**Fiscal year: 1999**

**FIA response: Agreed in part**

- 3. Provide CPS Records to Family Court:** The OCO recommends a statutory amendment to the CPL requiring the FIA to provide information to the Family Court with jurisdiction over a custody/visitation or guardianship case when CPS finds a preponderance of evidence that a child has been abused or neglected and: a) the FIA is aware that the child is the subject of court ordered custody/visitation or a legal guardianship; b) the FIA is aware that the adult perpetrator is a party to a court ordered custody/visitation action or is a court appointed legal guardian of a child.

**Fiscal year: 1999**

**FIA response: Agreed**

- 4. Disclose Central Registry Information:** The OCO recommends a statutory change to the CPL requiring CPS to disclose certain Central Registry information to parents. Specifically, the CPL should be amended to direct the FIA to release Central Registry information to a parent or

person legally responsible for a child if the FIA becomes aware that an individual with a substantiated history of child abuse or neglect has moved into a home where children reside. The CPS “Notice of Action and Rights” due process letter sent to substantiated perpetrators placed on the Central Registry should inform the perpetrator of this new law. The OCO also recognizes a perpetrator’s right, as part of due process, to file a request for expunction. Therefore, if a perpetrator has filed a request for expunction according to the process outlined in the due process notification letter, the FIA shall not release Central Registry information until the request for expunction process has been completed.

**Fiscal year: 1999**

**FIA response: Agreed in part**

- 5. Attorney Representation at Court Hearings:** The OCO recommends a statutory provision be enacted to require that at CPS and foster care hearings that an attorney represent FIA or its contract agency.

**Fiscal year: 1997**

**FIA response: Agreed**

- 6. Expand Definition of “Omission”:** The OCO recommends a statutory amendment to Section 136b(1)(b) of the Michigan Penal Code to expand the definition of the term “omission” to include identical language as found in Section 2(f)(ii) of the Child

Protection Law. Specifically, the OCO recommends the following amended language: “Omission” means a willful failure to provide the food, clothing, or shelter necessary for a child’s welfare or the willful abandonment of a child, or placing a child at an unreasonable risk to the child’s health or welfare by failure of the parent, legal guardian, or any other person responsible for the child’s health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk.”

**Fiscal year: 1999**

**FIA response: Disagreed**

**7. Amend FIA Appropriations**

**Act:** The OCO recommends that the standard language in the annual FIA Appropriations Act be amended to read: a) A child would be living in the same household with a parent or other adult who has been convicted of criminal sexual conduct OR ATTEMPTED CRIMINAL SEXUAL CONDUCT (CSC) against a child.

**Fiscal year 2001**

**FIA response: Agreed**

**8. Provide OCO with identity of CPS reporting person:** The OCO recommends that Section 5 of the Child Protection Law be amended to include (n) The Children’s Ombudsman, to read: “Sec. 5. Except for records available under section 7(2)(a), (b), and (n), the identity of a reporting person is confidential subject to disclosure only with the consent of that person or by judicial process.”

**Fiscal year 2001**

**FIA response: Neither agreed nor disagreed**

# Appendix A

## Acknowledgments

The OCO would like to thank former Governor John Engler for the opportunity to continue to work with other agencies in the child welfare system that are dedicated to improving the lives of Michigan's children. We also look forward to working with Governor Jennifer Granholm in furthering our efforts. The ardent support of the Michigan Legislature and continued interest in the work of the OCO is also much appreciated.

The cooperative working relationship the OCO has with the Family Independence Agency, both at the county level and central office, and the State's private child-placing agencies was invaluable during this reporting period. We would like to particularly thank Steve Yager and Tammy Jackus of FIA's Office of the Family Advocate for all their hard work in serving as the liaison between our agencies. The OCO would also like to recognize the dedication of FIA and private agency front-line workers for their caring efforts on behalf of Michigan's children.

Countless individuals assisted the OCO by providing expert advice and assistance and in that regard we are grateful. We would also like to thank Dr. Christina DeJong, assistant professor of Criminal Justice at Michigan State University, for donating her time and advice regarding the statistics in this annual report.

The OCO is especially grateful to the citizens of Michigan who have contacted our office on behalf

of at-risk children. We believe our office has served them, and the children they brought to our attention as well.

Finally, acknowledgment must be given to the professional efforts of the dedicated staff that comprise the Office of Children's Ombudsman for assisting the citizens who contact our office and investigating cases on behalf of children in need.

# Appendix B

## OCO Investigations by County (October 1, 2001 to September 30, 2002)

County	Investigations
Alcona	0
Alger	1
Allegan	1
Alpena	0
Antrim	1
Arenac	2
Baraga	0
Barry	1
Bay	4
Benzie	0
Berrien	1
Branch	0
Calhoun	2
Cass	4
Charlevoix	2
Cheboygan	1
Chippewa	0
Clare	1
Clinton	2
Crawford	1
Delta	0
Dickinson	0
Eaton	0
Emmet	0
Genesee	13
Gladwin	1
Gogebic	0
Grand Traverse	4
Gratiot	2
Hillsdale	2
Houghton	0
Huron	0
Ingham	7
Ionia	3
Iosco	0
Iron	0
Isabella	0
Jackson	2
Kalamazoo	5
Kalkaska	3
Kent	10
Keweenaw	0

County	Investigations
Lake	0
Lapeer	2
Leelanau	0
Lenawee	0
Livingston	0
Luce	1
Mackinac	0
Macomb	14
Manistee	0
Marquette	0
Mason	0
Mecosta	0
Menominee	0
Midland	0
Missaukee	1
Monroe	4
Montcalm	1
Montmorency	0
Muskegon	4
Newaygo	2
Oakland	14
Oceana	1
Ogemaw	2
Ontonagon	0
Osceola	1
Oscoda	0
Otsego	0
Ottawa	3
Presque Isle	0
Roscommon	1
Saginaw	5
St. Clair	4
St. Joseph	3
Sanilac	1
Schoolcraft	0
Shiawassee	1
Tuscola	1
Van Buren	3
Washtenaw	2
Wayne	36
Wexford	0
<b>Total</b>	<b>183</b>



# Appendix C

## Complaint Process & Investigative Procedures

This appendix describes the procedures the OCO has established under the mandate of PA 204, Section 4(2)<sup>14</sup> to receive and investigate complaints.

### ◆ Confidentiality

The identity of all complainants who contact the OCO is kept confidential unless the complainant provides written permission to reveal his/her identity. The OCO's investigative records are also confidential by law and are exempt from Freedom of Information Act (FOIA) requests.

### ◆ Complaint Intake

Section 5 of PA 204 lists those individuals<sup>15</sup> who can officially make complaints to the OCO. While certain individuals are not eligible to be official complainants, the Ombudsman has the discretion under Section 6 of PA 204 to open a case upon his or her own initiative if he/she believes that an investigation is warranted.<sup>16</sup>

Complaints are received via telephone, mail, fax, and

e-mail, with the majority of complaints being received by telephone. All complaints are directed to the intake investigator. Standard information, such as the complainant's name, address, telephone number, and names and ages of the children involved, is entered into the OCO's automated database, along with a summary of the complaint and the action the complainant is requesting from the OCO. The confidential database allows the OCO to track the characteristics and progress of each case, examine trends and patterns, and compile the results of investigations.

If a complaint falls outside the jurisdiction of PA 204, the intake investigator will refer the complainant to other agencies or individuals who may be able to assist in resolving the problem. All complaints that fall within the statutory guidelines of PA 204 are brought to the attention of the Ombudsman and a decision is made regarding what course of action will be taken.

### ◆ Complaint Categories

Complaints generally fall into three categories: Inquiries, Referrals, and Valid Complaints.

*Inquiries* are complaints that do not involve CPS, foster care, or adoption services. These complaints might involve custody matters, child support, school problems, or juvenile delinquency, which the OCO has no statutory authority to investigate. Inquiries also include general requests for information about some aspect of the child welfare system.

*Inquiries are calls that do not involve CPS, foster care, or adoption services.*

*Referrals are complaints that concern a child involved with CPS, foster care, or adoption services, but the complaint is not about the FIA or a private agency.*

<sup>14</sup> PA 204, Section 4(2): "The Ombudsman shall establish procedures for receiving and processing complaints from complainants, conducting investigations, holding hearings, and reporting findings resulting from investigations."

<sup>15</sup> PA 204, Section 5, states that the following individuals may make a complaint: (a) the child, if he or she is able to articulate a complaint; (b) a biological parent of the child; (c) a foster parent of the child; (d) an adoptive parent or prospective adoptive parent of the child; (e) a legally appointed guardian of the child; (f) a guardian ad litem of the child; (g) an adult who is related to the child within the fifth degree by marriage, blood, or adoption; (h) a Michigan legislator; and, (I) an attorney for any individual listed in sections (a) through (h).

<sup>16</sup> PA 204, Section 6.



***Agencies are provided with 60 days to review and respond to the Findings and Recommendations detailed in the report.***

During this fiscal year, 147 complaints were classified as inquiries.

*Referrals* are complaints that concern a child involved with CPS, foster care, or adoption services, but the complaint is not about the FIA or a private agency. Rather, the complaint is about a component of the child welfare system that the OCO has no jurisdiction to investigate; for example, law enforcement, attorneys, or the court system. During this fiscal year, 109 complaints were classified as referrals.

Verbal or written referral information is provided to those individuals whose complaints are classified as “inquiries” or “referrals,” to assist in resolving their particular problem or provide them the information they are seeking.

Valid complaints fall within the statutory guidelines of PA 204. These complaints concern the actions or inaction of the FIA and/or a private agency as they relate to a child who is involved with CPS, foster care, or adoption services. Not all complaints that fall within the OCO authority are opened for investigation. For example, a complaint might concern an event which occurred many years prior and involvement by the OCO would not serve any purpose, or a complaint is in regard to an issue that has since been addressed through new policy or law. In some cases, the complainant may request an outcome that the OCO has no authority to provide, such as restoring parental rights; or assisting the complainant with reversing the agency’s actions, even though the

agency has complied with law and policy. If a valid complaint is not opened for investigation, a verbal or written decision and explanation is provided to the complainant along with additional information or suggestions to assist them. In September 1999, a new category, “valid complaint-not opened,” was added to the automated database to enable the OCO to track these complaints.

Pursuant to PA 204, Section 7(3), the OCO encourages individuals to pursue existing remedies to address their concerns before the OCO accepts a complaint for investigation. For example, if a foster parent complains that a worker is not providing needed services to a foster child, the OCO will recommend the foster parent contact the worker’s supervisor or agency director to see if the problem can be resolved by the agency. If the problem cannot be resolved, the OCO may open the case.

#### ◆ Preliminary Investigations

In some instances, the intake investigator may need more information about a complaint before it can be determined whether an investigation by the OCO is appropriate or warranted. In such cases, the intake investigator may contact the agency worker or supervisor, or other collateral sources to gather additional information to assist in making a determination.

#### ◆ Investigations

When a complaint is accepted for investigation, a letter is sent informing the complainant that the

case will be investigated. Questions for the investigator to consider for each investigation are established by the Ombudsman and the intake investigator, and are entered into the OCO's database. A request for the case file is made through the FIA's Office of the Family Advocate indicating the type of case (CPS, foster care, adoption or a combination) and the nature of the complaint.

Section 8 of PA 204 authorizes the FIA and/or private agency to release confidential case file documentation to the Ombudsman, and to assist the Ombudsman in obtaining the necessary releases for those documents that are specifically restricted. Upon receipt of the case file, the case is assigned to a lead investigator.

Each complaint assigned for investigation is subjected to a comprehensive review process. Generally, the investigation focuses on the issues identified by the complainant. However, the investigation is not limited to those issues and if other violations of law or policy are found, they will be addressed in a report to the agency. Case investigations are time-intensive and involve a thorough review of the documentation included in the case file.

In addition to a review of the case file, investigations include interviews with agency personnel and other interested parties, and in some instances, court appearances, case conferences, and consultations with outside experts. Throughout the investigative process, team members consult with each other, as well as the Ombudsman and the supervising investigator, to discuss

case progress and any emergent issues.

#### ◆ Findings

At the conclusion of an investigation, the OCO either affirms or disaffirms the actions of the agency in question. If the OCO concludes that the FIA and/or the private agency complied with law and policy, a letter is sent to the complainant, which restates the original complaint, outlines the steps taken by the OCO to investigate the case, and affirms the actions of the agency. A copy of this letter (with the identity of the complainant removed) is sent to the FIA and/or private agency involved in the investigation.

If the OCO finds that the actions of FIA and/or the private agency did not comply with law or policy, or were imposed without adequate statement of reason or were based on irrelevant, immaterial, or erroneous grounds, the OCO issues a report of Findings and Recommendations (F&R) to the FIA and/or private agency. Agencies are provided with 60 days to review and respond to the Findings and Recommendations detailed in the report. The complainant then receives a closing letter from the OCO that includes the OCO's recommendations, the agency's response, and any actions taken by the agency to correct the identified problem(s). A copy of this letter is also sent to the FIA or private agency with the identity of the complainant removed.

In some cases, the OCO may issue a letter to the complainant affirming the agency's actions with regard to the complainant's specific concern, but issue an F&R to the

agency if other violations are found. For example, the complainant may allege that CPS did not adequately investigate an allegation of abuse and neglect. The OCO finds that the complaint was properly investigated, and the child is now in foster care. However, in reviewing the case file, the OCO finds violations related to the handling of the foster care case. In this instance, an affirmation letter is sent to the complainant with regard to the specific complaint, and an F&R regarding the violations pertaining to foster care is issued to the agency.

#### ◆ Case Closure

Case closure generally occurs when the closing letter is sent to the complainant either affirming the actions of the FIA and/or private agency, or reporting the recommendations from an F&R.

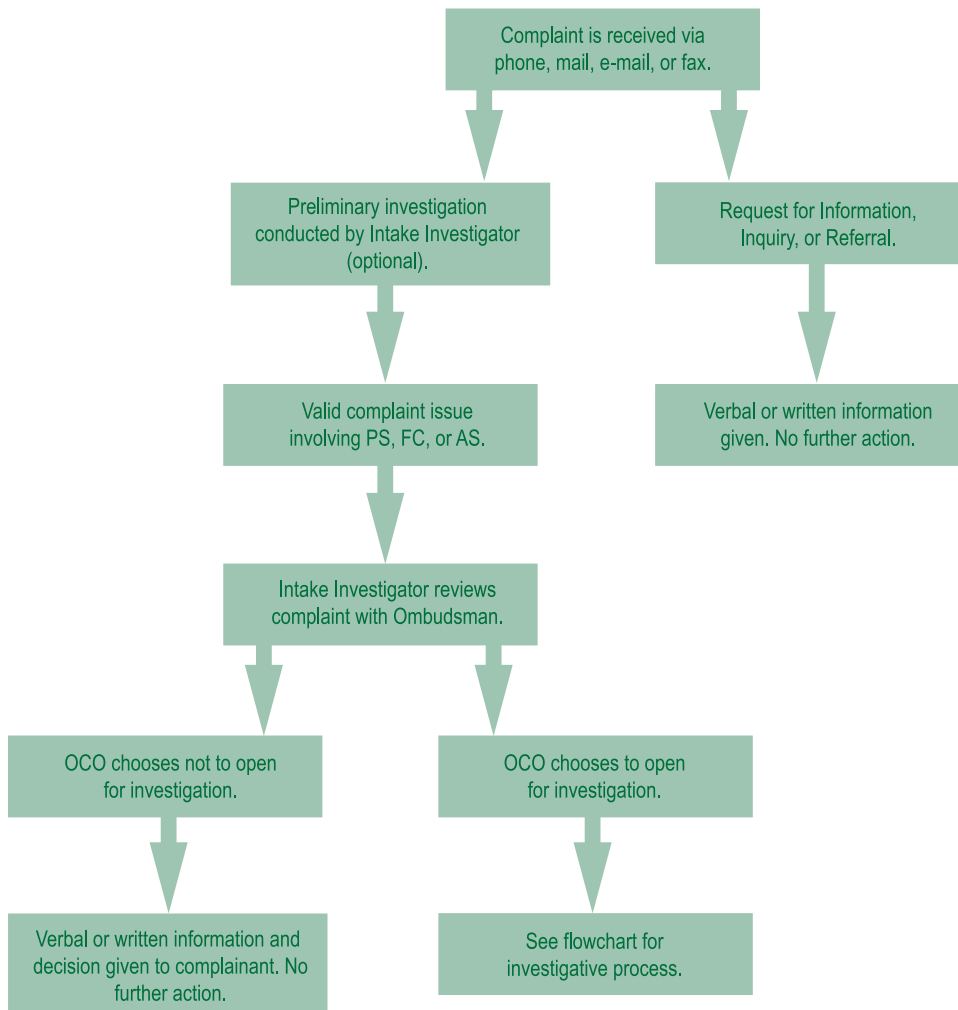
However, there are also two other means of closing a case, either as an exceptional closing or administrative resolution. Exceptional closings are utilized when the complainant's issues have been resolved either by the actions of the FIA or private agency, by another entity such as the court, or because the circumstances affecting the case have changed. Sometimes case closure is requested by the complainant after the case is opened, but prior to an investigation being commenced. In this instance, the OCO sends a closing letter to the complainant outlining the issue(s) involved in the case and the reason(s) for case closure.

A case may be closed as an administrative resolution when violations of policy and procedure

were identified, but an expedited action by the agency involved is necessary. Unlike an F&R where the agency has 60 days in which to respond, cases where an administrative resolution is utilized requests that the agency respond immediately to the findings and take specific action to protect a child. For instance, the OCO may find that the agency did not follow policy in determining that a child is safe in the home. The OCO notifies the agency immediately and requests that specific action be taken. Once that action is taken and thus addresses and corrects the violation, the need to issue a formal F&R is diminished. The OCO complainant still receives written notification that violations were identified and how they were corrected by the agency. It should be noted that the OCO reserves the right to issue a formal F&R if we deem it appropriate.

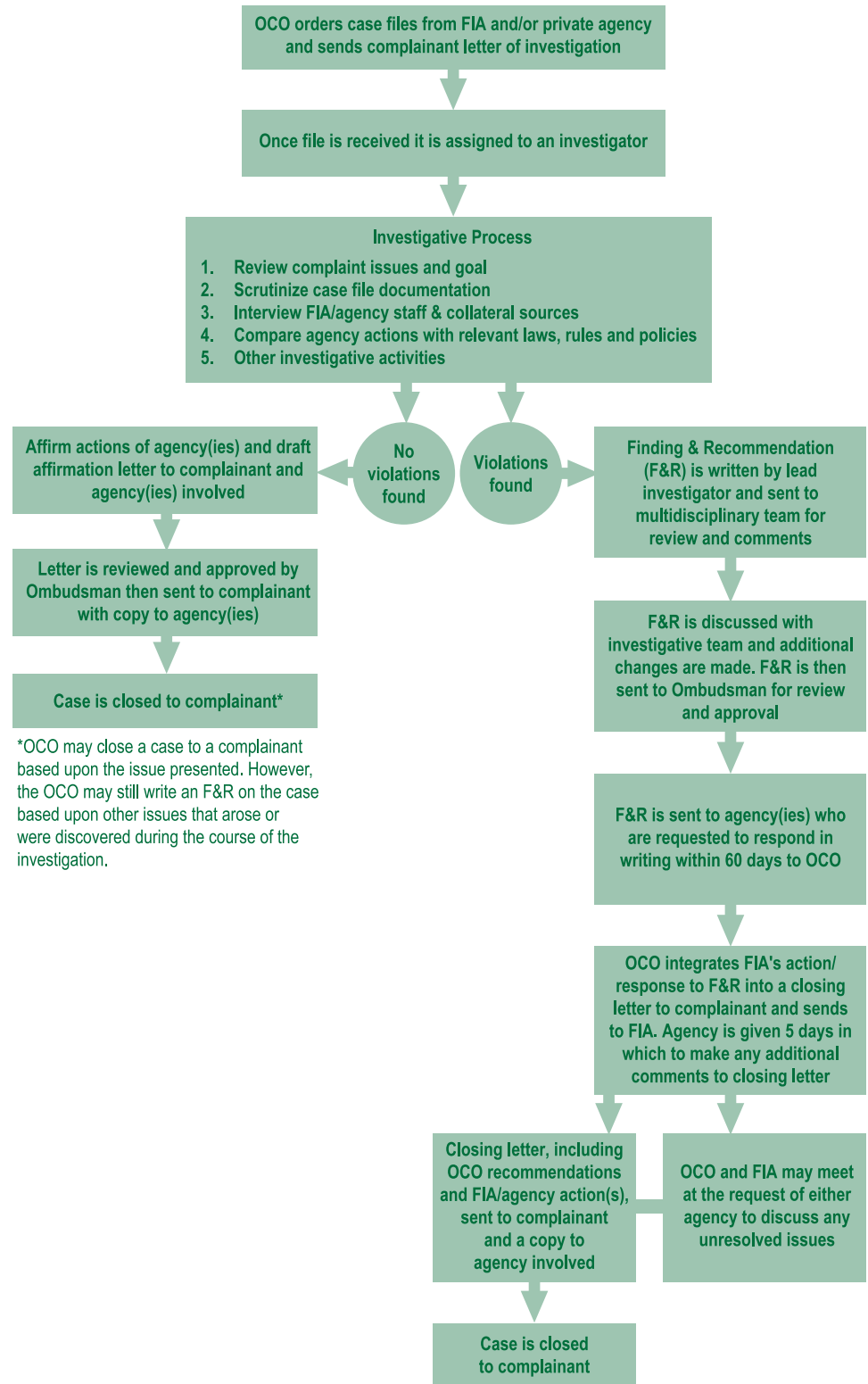
# Appendix D

## OCO Intake Process Flow Chart



# Appendix E

## OCO Investigation Process Flow Chart



# *Appendix F*

## **Multi-disciplinary Team Training**

### **October 1, 2001 - September 30, 2002**

- Child Welfare Institute Administrative Hearing Training for CPS Supervisors, Gaylord.
- National Association of Counsel for Children-24th National Children's Law Conference, "Advocacy for Children and Families: Moving from Sympathy to Empathy."
- 20th Annual Michigan Statewide Conference - Child Abuse and Neglect-Prevention, Assessment, and Treatment, Ann Arbor.
- Child Welfare Institute – Indian Child Welfare Training, Lansing.
- State Court Administrator's Office – LGAL Roundtable discussion.
- Shiawassee Council for Child Abuse Prevention: Protecting Innocence, Building Trust, Providing Hope, Corunna.
- Reducing Racial Disparities and Infant Mortality, Detroit.
- Foster Care Review Board Conference, Lansing.
- Michigan Association of Community Mental Health Boards Annual Winter Conference, "Accepting the Challenge: From AFT to Implementation," Lansing.
- "Listening to Children's Voices: Reducing the Emotional Damage to Children During Removal and Placement in Foster Care," East Lansing.
- Child Welfare Institute – Legal Issues for Child Welfare, Lansing.
- Michigan Family Impact Seminars – "Prostituted Teens: More than a Runaway Problem, Lansing.
- Prosecuting Attorney Association Specialized Child Abuse Training – Current Issues in Child Abuse and Neglect, Lansing.
- 8<sup>th</sup> Annual Children's Protective Services Medical Committee Conference, "A Child Abuse Course for Physicians: A Refresher on the Basics and Advanced Topics and Controversies," Traverse City.
- Infant Deaths in Michigan, Mt. Pleasant.
- Safe Sleep Summit for Wayne County and Greater Detroit, Detroit.
- ARCAN - Consortium for Applied Research on Child Abuse and Neglect, Detroit.
- Kent County Violence Prevention Coalition's 6<sup>th</sup> Annual Conference - Connecting for Children: Research, Resiliency and Reduction of Child Maltreatment.
- 65<sup>th</sup> Annual Mental Health Association in Michigan Conference, "Why the Public's Support is Critical," Livonia.

# *Appendix G*

## **PA 204 of 1994**

Act No. 204  
Public Acts of 1994  
Approved by the Governor  
June 20, 1994  
Filed with the Secretary of State  
June 21, 1994

### **STATE OF MICHIGAN 87TH LEGISLATURE REGULAR SESSION OF 1994**

Introduced by Senators Welborn, Dingell, Geake, Cisky,  
Dillingham, Gougeon, McManus, Wartner, Bouchard, DeGrow,  
Pridnia, Honigman, Gast, Hoffman, Arthurhultz, and Hart

## **ENROLLED SENATE BILL No. 723**

AN ACT to create a children's ombudsman; to prescribe the powers and duties of the children's ombudsman, certain state departments and officers, and certain county and private agencies serving children; and to provide remedies from certain administrative acts.

*The People of the State of Michigan enact:*

Sec. 1. This act shall be known and may be cited as "the children's ombudsman act."

Sec. 2. As used in this act:

(a) "Administrative act" includes an action, omission, decision, recommendation, practice, or other procedure of the department of social services, an adoption attorney, or a child placing agency with respect to a particular child related to adoption, foster care, or protective services.

(b) “Adoption attorney” means that term as defined in section 22 of the adoption code, being section 710.22 of the Michigan Compiled Laws.

(c) “Adoption code” means chapter X of Act No. 288 of the Public Acts of 1939, being sections 710.21 to 710.70 of the Michigan Compiled Laws.

(d) “Child placing agency” means an organization licensed or approved by the department of social services under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws, to receive children for placement in private family homes for foster care or adoption and to provide services related to adoption.

(e) “Child” means an individual under the age of 18.

(f) “Complainant” means an individual who makes a complaint as provided in section 5.

(g) “Department” means the department of social services.

(h) “Foster parent” means an individual licensed by the department of social services under Act No. 116 of the Public Acts of 1973 to provide foster care to children.

(i) “Official” means an official or employee of the department or a child placing agency.

(j) “Ombudsman” means the children’s ombudsman created in section 3.

Sec. 3. (1) As a means of monitoring and ensuring compliance with relevant statutes, rules, and policies pertaining to children’s protective services and the placement, supervision, and treatment of children in foster care and adoptive homes, the children’s ombudsman is created as an autonomous entity in the department of management and budget. The ombudsman shall exercise its powers and duties, including the functions of budgeting and procurement and other management-related functions, independently of the director of the department of management and budget.

(2) The ombudsman shall be appointed by the Governor and shall serve at the pleasure of the Governor.

Sec. 4. (1) The ombudsman shall establish procedures for budgeting, expending funds, and employing personnel. Subject to annual appropriations, the ombudsman shall employ sufficient personnel to carry out the duties and powers prescribed by this act.

(2) The ombudsman shall establish procedures for receiving and processing complaints from complainants, conducting investigations, holding hearings, and reporting findings resulting from investigations.



Sec. 5. All of the following individuals may make a complaint to the ombudsman with respect to a particular child, alleging that an administrative act is contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds:

- (a) The child, if he or she is able to articulate a complaint.
- (b) A biological parent of the child.
- (c) A foster parent of the child.
- (d) An adoptive parent or a prospective adoptive parent of the child.
- (e) A legally appointed guardian of the child.
- (f) A guardian ad litem of the child.
- (g) An adult who is related to the child within the fifth degree by marriage, blood, or adoption, as defined in section 22 of the adoption code, being section 710.22 of the Michigan Compiled Laws.
- (h) A Michigan Legislator.
- (i) An attorney for any individual described in subparagraphs (a) to (g).

Sec. 6. The ombudsman may do all of the following:

- (a) Upon its own initiative or upon receipt of a complaint from a complainant, investigate an administrative act that is alleged to be contrary to law or rule, or contrary to policy of the department or a child placing agency, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds.
- (b) Decide, in its discretion, whether to investigate a complaint.
- (c) Upon its own initiative or upon receipt of a complaint from a complainant, conduct a preliminary investigation to determine whether an adoption attorney may have committed an administrative act that is alleged to be contrary to law, rule, or the Michigan rules of professional conduct adopted by the Michigan supreme court.
- (d) Hold informal hearings and request that individuals appear before the ombudsman and give testimony or produce documentary or other evidence that the ombudsman considers relevant to a matter under investigation.
- (e) Make recommendations to the Governor and the legislature concerning the need for protective services, adoption, or foster care legislation.

Sec. 7. (1) Upon rendering a decision to investigate a complaint from a complainant, the ombudsman shall notify the complainant of the decision to investigate and shall notify the department, adoption attorney, or child placing agency of the intention to investigate. If the ombudsman declines to investigate a complaint or continue an investigation, the ombudsman shall notify the complainant and the department, adoption attorney, or child placing agency of the decision and of the reasons for the ombudsman's action.

(2) If the preliminary investigation described in section 6 leads the ombudsman to believe that the matter may involve misconduct by an adoption attorney, the ombudsman shall immediately refer the complaint to the attorney grievance commission of the state bar of Michigan.

(3) The ombudsman may advise a complainant to pursue all administrative remedies or channels of complaint open to the complainant before pursuing a complaint with the ombudsman. Subsequent to the administrative processing of a complaint, the ombudsman may conduct further investigations of any complaint upon the request of the complainant or upon the ombudsman's own initiative.

(4) If the ombudsman finds in the course of an investigation that an individual's action is in violation of state or federal criminal law, the ombudsman shall immediately report that fact to the county prosecutor or the attorney general. If the complaint is against a child placing agency, the ombudsman shall refer the matter to the department of social services for further action with respect to licensing.

(5) The ombudsman may file a petition on behalf of a child requesting the court to take jurisdiction under section 2(b) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws, or a petition for termination of parental rights under section 19b of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.19b of the Michigan Compiled Laws, if the ombudsman is satisfied that the complainant has contacted the department, the prosecuting attorney, the child's attorney, and the child's guardian ad litem, if any, and that none of these persons intend to file a petition as described in this subsection.

Sec. 8 (1) The department and a child placing agency shall do all of the following:

(a) Upon the ombudsman's request, grant the ombudsman or its designee access to all relevant information, records, and documents in the possession of the department or child placing agency that the ombudsman considers necessary in an investigation.

(b) Assist the ombudsman to obtain the necessary releases of those documents that are specifically restricted.

(c) Provide the ombudsman upon request with progress reports concerning the administrative processing of a complaint.

(2) The department, an adoption attorney, and a child placing agency shall provide information to a biological parent, prospective adoptive parent, or foster parent regarding the provisions of this act.

Sec. 9. The ombudsman shall treat all matters under investigation, including the identities of recipients or individuals from whom information is acquired, as confidential, except so far as disclosures may be necessary to enable the ombudsman to perform the duties of the office and to support any recommendations resulting from an investigation. A record of the office of the ombudsman is confidential, shall be used only for purposes set forth in this act, and is not subject to court subpoena. A record of the office of the ombudsman is exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Sec. 10. (1) The ombudsman shall prepare a report of the findings of an investigation and make recommendations to the department or child placing agency if the ombudsman finds 1 or more of the following:

(a) A matter should be further considered by the department or child placing agency.

(b) An administrative act should be modified or canceled.

(c) Reasons should be given for an administrative act.

(d) Other action should be taken by the department or child placing agency.

(2) Before announcing a conclusion or recommendation that expressly or by implication criticizes an individual, the department, or a child placing agency, the ombudsman shall consult with that individual, the department, or the child placing agency. When publishing an opinion adverse to the department or child placing agency, the ombudsman shall include in the publication any statement of reasonable length made to the ombudsman by the department or child placing agency in defense or mitigation of the action. The ombudsman may request to be notified by the department or child placing agency, within a specified time, of any action taken on any recommendation presented.

(3) The ombudsman shall notify the complainant of the actions taken by the ombudsman and by the department or child placing agency.

(4) The ombudsman shall provide the complainant with a copy of its recommendations on a complaint.

(5) The ombudsman shall submit to the governor, the director of the department, and the legislature an annual report on the conduct of the ombudsman, including any recommendations regarding the need for legislation or for change in rules or policies.

Sec. 11. (1) An official, the department, or a child placing agency shall not penalize any person for filing a complaint or cooperating with the ombudsman in investigating a complaint.

(2) An individual, the department, an adoption attorney, or a child placing agency shall not hinder the lawful actions of the ombudsman or employees of the ombudsman.

Sec. 12. The authority granted the ombudsman under this act is in addition to the authority granted under the provisions of any other act or rule under which the remedy or right of appeal or objection is provided for a person, or any procedure provided for the inquiry into or investigation of any matter. The authority granted the ombudsman does not limit or affect the remedy or right of appeal or objection and is not an exclusive remedy or procedure.

Sec. 13. The ombudsman shall maintain a registry of adoption attorneys who provide services described in the

adoption code. The ombudsman shall remove an adoption attorney from the registry under any of the following circumstances:

(a) The attorney requests that his or her name be removed from the registry.

(b) The attorney fails to register as provided in section 5 of the foster care and adoption services act.

(c) The ombudsman receives notice that the attorney's license to practice law is suspended or revoked.

Sec. 14. This act shall take effect January 1, 1995.

Sec. 15. This act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

(a) Senate Bill No. 299.

(b) Senate Bill No. 721.

- (c) Senate Bill No. 722.
- (d) Senate Bill No. 724.
- (e) Senate Bill No. 725.
- (f) House Bill No. 4201.
- (g) House Bill No. 4428.
- (h) House Bill No. 4614.
- (i) House Bill No. 4638.

This act is ordered to take immediate effect.